

ASSEMBLY, No. 4869

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MAY 22, 2017

Sponsored by:
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)

SYNOPSIS

Provides gross income tax exclusion for capital gains from sale of certain employer securities by qualified businesses that result in net positive benefit to State.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT providing a gross income tax exclusion for capital gains
2 from the sale of certain employer securities by qualified
3 businesses that result in a net positive benefit to the State,
4 supplementing chapter 6 of Title 54A of the New Jersey Statutes.

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

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9 1. The Legislature finds and declares that:

10 a. Historic data show that employee ownership has proven to
11 reduce unemployment through the retention of full-time jobs.

12 b. Employee and management owned enterprises produce
13 indirect revenues that come from the reduction in unemployment
14 insurance claims, gains in the retained-employee income taxes,
15 corporate income taxes, and New Jersey state sales taxes.

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17 2. a. Gross income shall not include net gains or income from
18 the sale or exchange of employer securities of a qualified business
19 with fewer than 500 employees that is not publically traded on any
20 stock exchange to an employee stock ownership plan, a New Jersey
21 S corporation owned by an employee stock ownership plan, or an
22 eligible worker-owned cooperative, benefiting employees of the
23 qualified business in this State if upon completion of the transaction
24 the employee stock ownership plan, New Jersey S corporation
25 owned by an employee stock ownership plan, or eligible worker-
26 owned cooperative plan owns at least 30 percent of all outstanding
27 employer securities issued by the qualified business.

28 b. Provided however, that the exclusion of net gains or income
29 provided for in this section shall not be allowed unless the qualified
30 business has first applied for and received from the New Jersey
31 Economic Development Authority, established by section 4 of
32 P.L.1974, c.80 (C.34:1B-4), certification by the authority that the
33 qualified business has demonstrated that the allowance of the
34 estimated tax savings that will result from the exclusion of net gains
35 or income from the sale or exchange will result in the retention of
36 full-time jobs in the qualified business in this State and will yield a
37 net positive benefit to the State. The New Jersey Economic
38 Development Authority may determine the net economic benefit
39 using the number of employees whose jobs were retained and the
40 savings achieved through the reduction of the unemployment
41 insurance claims that might have been claimed by those employees
42 had their jobs not be retained, the New Jersey gross income tax and
43 New Jersey sales and use tax paid by those employees, and the
44 expected New Jersey corporation business tax paid by the qualified
45 business that would continue as an employee and management
46 owned enterprise.

47 c. As used in this section:

1 “Eligible worker-owned cooperative” means an “eligible worker-
2 owned cooperative” as defined by paragraph (2) of subsection (c) of
3 section 1042 of the federal Internal Revenue Code (26 U.S.C.
4 s.1042).

5 “Employee stock ownership plan” means an “employee stock
6 ownership plan” as defined by paragraph (7) of subsection (e) of
7 section 4975 of the federal Internal Revenue Code (26 U.S.C.
8 s.4975).

9 “Employer securities” means “employer securities” as defined by
10 subsection (l) of section 409 of the federal Internal Revenue Code
11 (26 U.S.C. s.409).

12 “Qualified business” means a private entity, whose headquarters
13 or base of operations is in this State, including but not limited to a
14 corporation, an S corporation, limited liability company,
15 partnership, limited liability partnership, a sole proprietorship, and
16 all private entities related by common ownership or control.

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18 3. This act shall take effect immediately and apply to taxable
19 years beginning on or after January 1 next following the date of
20 enactment.

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STATEMENT

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25 This bill allows for a gross income tax exclusion for capital gains
26 from the sale of certain employer securities by qualified businesses
27 that result in the retention of full-time jobs that yield a net positive
28 benefit to the State. The gross income tax exclusion will be
29 contingent upon the qualified business receiving pre-transaction
30 certification from the New Jersey Economic Development
31 Authority, that considering the gross income tax forgone from the
32 exclusion of income, the transaction will result in the retention of
33 full-time jobs in the qualified business in this State and will yield a
34 net positive benefit to the State. The capital gains or income to be
35 excluded must be from the sale of employer securities of a non-
36 publically traded business with fewer than 500 employees, whose
37 headquarters or base of operations is in this State, to an employee
38 stock ownership plan, a New Jersey S corporation owned by an
39 employee stock ownership plan, or an eligible worker-owned
40 cooperative, benefiting employees of the business in this State, if
41 upon completion of the transaction the employee stock ownership
42 plan, New Jersey S corporation owned by an employee stock
43 ownership plan, or eligible worker-owned cooperative plan owns at
44 least 30 percent of all outstanding employer securities issued by the
45 business.

46 The purpose of this bill is to incentivize small businesses to
47 establish employee stock ownership plans. An employee stock
48 ownership plan allows companies to share ownership with

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1 employees without requiring employees to invest their own money.
2 In addition, this bill encourages small business owners to sell their
3 businesses to the very employees that contributed to their success
4 and save those jobs in this State. This will help to ensure that local
5 businesses are not sold to out-of-state buyers, which often results in
6 the loss of jobs in this State and can be harmful to the fabric of local
7 communities.