

ASSEMBLY, No. 180

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman HAROLD "HAL" J. WIRTHS
District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Assemblyman DePhillips, Assemblywomen N.Munoz, DiMaso,
Assemblyman Thomson and Assemblywoman B.DeCroce

SYNOPSIS

Provides small businesses with gross income tax or corporation business tax deduction for wages paid to minimum wage employees.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** providing small businesses with a gross income tax or
2 corporation business tax deduction for wages paid to minimum
3 wage employees, supplementing chapter 3 of Title 54A of the
4 New Jersey Statutes and P.L.1945, c.162 (C.54:10A-1 et seq.).

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

8
9 1. a. For taxable years beginning on or after January 1, 2019,
10 but before January 1, 2029, a taxpayer that is a qualified employer
11 shall be allowed to deduct from gross income the amount of wages
12 paid to qualified employees during the taxable year.

13 b. As used in this section:

14 “Qualified employer” means a business entity, including all
15 entities related by common ownership or control which has its
16 principal place of business in the State, is independently owned and
17 operated, and that had an average weekly number of full-time
18 employees of not more than 100 employees during the calendar year
19 ending in the business entity’s taxable year.

20 “Qualified employee” means an employee of a qualified
21 employer who is compensated in wages on an hourly basis, which
22 wages are determined pursuant to the greater of the minimum
23 hourly wage in effect pursuant to:

24 (1) the "New Jersey State Wage and Hour Law," P.L.1966,
25 c.113 (C.34:11-56a et seq.); or

26 (2) paragraph 23 of Article I of the New Jersey Constitution.

27 “Wages” means direct monetary compensation for labor or
28 services rendered by an employee, which amount is determined on
29 an hourly basis, excluding any task, piece, or commission form of
30 supplementary incentives and bonuses that are calculated
31 independently of regular wages and paid in addition thereto, which
32 are with respect to employment on a full-time basis in the ordinary
33 course of business.

34 c. The deduction allowed pursuant to this section shall be
35 allowed in addition any other exemptions, deductions, and credits
36 that may be claimed by the taxpayer pursuant to the “New Jersey
37 Gross Income Tax Act,” N.J.S.54A:1-1 et seq., including but not
38 limited to ordinary and necessary business expenses.

39 d. A qualified employer that is classified as a partnership shall
40 not be allowed a deduction pursuant to this section directly, but the
41 amount of deduction of a taxpayer in respect of a distributive share
42 of partnership income from the qualified employer pursuant to the
43 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall
44 be determined by allocating to the taxpayer that proportion of the
45 deduction acquired by the partnership that is equal to the taxpayer's
46 share, whether or not distributed, of the total distributive of the
47 partnership for its taxable year ending within or with the taxpayer's
48 taxable year.

1 The deduction for a qualified employer that is a corporation that
2 has made a valid election as a New Jersey S corporation pursuant to
3 section 3 of P.L.1993, c.173 (C.54:10A-5.22) may be applied by the
4 shareholders of the S corporation against the tax liability otherwise
5 due pursuant to the "New Jersey Gross Income Tax Act,"
6 N.J.S.54A:1-1 et seq., provided that the amount of deduction that
7 may be used by a shareholder of the S corporation shall be
8 determined by allocating to each shareholder of the S corporation
9 that proportion of the tax deduction of the S corporation that is
10 equal to the shareholder's proportionate share of the S corporation,
11 whether or not distributed, of the total distributive income or gain
12 of the S corporation for its privilege period ending with or within
13 the shareholder's taxable year, and the deduction may be applied by
14 the shareholders against the tax liability otherwise due pursuant to
15 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

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17 2. a. For privilege periods beginning on or after January 1,
18 2019, but before January 1, 2029, a taxpayer that is a qualified
19 employer shall be allowed to deduct from entire net income, or such
20 portion thereof as may be allocable to this State as provided in
21 section 6 of P.L.1945, c.162 (C.54:10A-6) plus such portion thereof
22 as is specifically assigned to this State as provided in section 5 of
23 P.L.1993, c.173 (C.54:10A-6.1), the amount of wages paid to
24 qualified employees during the privilege period.

25 b. As used in this section:

26 "Qualified employer" means a business entity, including all
27 entities related by common ownership or control which has its
28 principal place of business in the State, is independently owned and
29 operated, and that had an average weekly number of full-time
30 employees of not more than 100 employees during the calendar year
31 ending in the business entity's privilege period.

32 "Qualified employee" means an employee of a qualified
33 employer who is compensated in wages on an hourly basis, which
34 wages are determined pursuant to the greater of the minimum
35 hourly wage in effect pursuant to:

36 (1) the "New Jersey State Wage and Hour Law," P.L.1966, c.113
37 (C.34:11-56a et seq.); or

38 (2) paragraph 23 of Article I of the New Jersey Constitution.

39 "Wages" means direct monetary compensation for labor or
40 services rendered by an employee, which amount is determined on
41 an hourly basis, excluding any task, piece, or commission form of
42 supplementary incentives and bonuses that are calculated
43 independently of regular wages and paid in addition thereto, which
44 are with respect to employment on a full-time basis in the ordinary
45 course of business.

46 c. The deduction allowed pursuant to this section shall be
47 allowed in addition any other exemptions, deductions, and credits
48 that may be claimed by the taxpayer pursuant to the "Corporation

1 Business Tax Act (1945),” P.L.1945, c.162 (C.54:10A-1 et seq.),
2 including but not limited to ordinary and necessary business
3 expenses.

4
5 3. This act shall take effect immediately.
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8 STATEMENT
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10 This bill permits small business taxpayers to claim a gross
11 income tax or corporation business tax deduction in the amount of
12 wages paid to minimum wage employees of the small business in a
13 tax year. This deduction is available for tax years beginning on or
14 after January 1, 2019, but before January 1, 2029, and can be
15 claimed by the small business in addition to any other available
16 exemptions and deductions.

17 Generally, for purposes of calculating gross income tax or
18 corporation business tax liability, businesses are permitted to
19 exclude amounts paid as wages to certain employees, including
20 minimum wage employees, as ordinary and necessary business
21 expenses. The deduction permitted by this bill is allowed in
22 addition to this ordinary and necessary business expense exclusion,
23 as well as any other exemptions, deductions, and credits that may be
24 claimed for the tax year.

25 To qualify for the deduction permitted by this bill, the small
26 business taxpayer is required to be a “qualified employer,” which is
27 defined in the bill to mean a business (including all entities related
28 by common ownership or control) that: (1) has its principal place of
29 business in the State, (2) is independently owned and operated, and
30 (3) had an average weekly number of full-time employees not
31 greater than 100 employees during the calendar year. A qualified
32 employer is permitted to deduct the amount of wages paid to the
33 qualified employees of the business in the tax year; “qualified
34 employee” is defined in the bill to mean an hourly-wage employee
35 who receives minimum wage as set by State law.

36 If a qualified employer is classified as a partnership for State tax
37 purposes or is a New Jersey S corporation, then the amount of the
38 deduction may be claimed by each taxpayer on a pro rata basis
39 according to the taxpayer’s distributive share of income from the
40 qualified employer.