

ASSEMBLY, No. 265

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Provides credits under corporation business tax and gross income tax for qualified wages of certain disabled veterans.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** providing credits under the corporation business tax and
2 gross income tax for qualified wages of certain disabled
3 veterans, supplementing P.L.1945, c.162 (C.54:10A-1 et seq.)
4 and Title 54A of the New Jersey Statutes.

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

8
9 1. a. For privilege periods commencing on or after January 1,
10 2017 but before January 1, 2020, a taxpayer shall be allowed a
11 credit against the corporation business tax imposed pursuant to
12 section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to 15
13 percent of qualified wages paid in the privilege period to a qualified
14 disabled veteran in the course of sustained employment. Provided
15 however, for a privilege period the credit shall not be allowed in an
16 amount exceeding \$1,800 for each qualified disabled veteran.

17 (1) The order of priority of the application of the credit allowed
18 pursuant to this section and any other credits allowed against the tax
19 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for
20 a privilege period shall be as prescribed by the director.

21 The amount of the credit applied pursuant to this section, added
22 together with any other credit allowed against the tax imposed
23 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall not
24 exceed 50 percent of the tax liability otherwise due and shall not
25 reduce the tax liability to an amount less than the statutory
26 minimum provided in subsection (e) of section 5 of P.L.1945, c.162
27 (C.54:10A-5).

28 Unused credit resulting from the limitations of this paragraph (1)
29 may be carried forward, if necessary, for use in the seven privilege
30 periods following the privilege period for which the credit is
31 allowed.

32 (2) A taxpayer shall not be granted a credit pursuant to this
33 section for the qualified wages paid to a qualified disabled veteran
34 in a privilege period if the qualified wages of the qualified disabled
35 veteran or the job providing qualified wages to the qualified
36 disabled veteran is included in the calculation of another credit
37 against any State tax or grant for a period of time that coincides
38 with the applicable privilege period.

39 (3) If the director determines that a taxpayer is displacing
40 employees and replacing the employees with qualified disabled
41 veterans for the primary purposes of obtaining the credit allowed
42 pursuant to this section, the director shall deny the taxpayer the
43 credit allowed under this section and shall issue a tax assessment
44 for the recapture of credit previously allowed to the taxpayer under
45 this section plus an assessment of 50 percent of any credit subject to
46 recapture as penalty.

47 (4) A taxpayer may apply to the director for a tax credit transfer
48 certificate in lieu of applying any amount of the credit provided

1 pursuant to this section against its tax liability. The tax credit
2 transfer certificate, upon receipt thereof by the taxpayer from the
3 director, may be sold or assigned, in full or in part, to any other
4 taxpayer that may have a tax liability under section 5 of P.L.1945,
5 c.162 (C.54:10A-5) in exchange for private financial consideration
6 to be provided by the purchaser or assignee to the taxpayer that is
7 eligible for the credit. The certificate provided to the taxpayer shall
8 include a statement waiving the taxpayer's right to claim that
9 amount of the credit against the tax imposed pursuant to section 5
10 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to
11 sell or assign. The sale or assignment of any amount of a tax credit
12 transfer certificate allowed under this section shall not be
13 exchanged for consideration received by the taxpayer of less than
14 75 percent of the transferred credit amount. Any amount of a tax
15 credit transfer certificate used by a purchaser or assignee against a
16 tax liability under section 5 of P.L.1945, c.162 (C.54:10A-5) shall
17 be subject to the same limitations and conditions that apply to the
18 use of a credit provided by this section.

19 b. As used in this section:

20 "Qualified disabled veteran" means a resident of this State
21 initially hired by the taxpayer on or after the date of enactment of
22 this act who has been honorably discharged or released under
23 honorable circumstances from active service, occurring on or after
24 January 1, 1990, in any branch of the Armed Forces of the United
25 States and who has been declared by the United States Department
26 of Veterans Affairs, or its successor, to have a service-connected
27 disability rating of 30 percent or greater.

28 "Qualified wages" mean any salaries, wages and remuneration
29 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
30 et seq., paid to a qualified disabled veteran on or after January 1,
31 2017 but before January 1, 2020, for labor rendered in service to an
32 enterprise of the taxpayer.

33 "Sustained employment" means a period of time no less than 185
34 business days during the privilege period in which a qualified
35 disabled veteran is earning qualified wages.

36

37 2. a. For taxable years commencing on or after January 1,
38 2017 but before January 1, 2020, a taxpayer shall be allowed a
39 credit against the tax due pursuant to the "New Jersey Gross Income
40 Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 15 percent
41 of qualified wages paid in the taxable year to a qualified disabled
42 veteran in the course of sustained employment. Provided however,
43 for a taxable year the credit shall not be allowed in an amount
44 exceeding \$1,800 for each qualified disabled veteran.

45 (1) A credit allowed pursuant to this section shall not reduce the
46 tax liability otherwise due pursuant to the "New Jersey Gross
47 Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year to less
48 than zero.

1 Unused credit resulting from the limitations of this paragraph (1)
2 may be carried forward if necessary to the seven taxable years
3 following the taxable year for which the credit was allowed. The
4 form and method of carry forward shall be as prescribed by the
5 director.

6 A business entity that is classified as a partnership for federal
7 income tax purposes shall not be allowed a credit directly, but the
8 amount of credit of a taxpayer in respect of a distributive share of
9 partnership income, shall be determined by allocating to the
10 taxpayer that proportion of the credit acquired by the partnership
11 that is equal to the taxpayer's share, whether or not distributed, of
12 the total distributive income or gain of the partnership for its
13 taxable year ending within or with the taxpayer's taxable year.

14 A New Jersey S Corporation shall not be allowed a credit
15 directly under the gross income tax, but the amount of credit of a
16 taxpayer in respect of a pro rata share of S Corporation income,
17 shall be determined by allocating to the taxpayer that proportion of
18 the credit acquired by the New Jersey S Corporation that is equal to
19 the taxpayer's share, whether or not distributed, of the total pro rata
20 share of S Corporation income of the New Jersey S Corporation for
21 its privilege period ending within or with the taxpayer's taxable
22 year.

23 (2) A taxpayer shall not be granted a credit pursuant to this
24 section for the qualified wages paid to a qualified disabled veteran
25 in a taxable year if the qualified wages of the qualified disabled
26 veteran or the job providing qualified wages to the qualified
27 disabled veteran is included in the calculation of another credit
28 against any State tax or grant for a period of time that coincides
29 with the applicable taxable year.

30 (3) If the director determines that a taxpayer is displacing
31 employees and replacing the employees with qualified disabled
32 veterans for the primary purposes of obtaining the credit allowed
33 pursuant to this section, the director shall deny the taxpayer the
34 credit allowed under this section and shall issue a tax assessment
35 for the recapture of credit previously allowed to the taxpayer under
36 this section plus an assessment of 50 percent of any credit subject to
37 recapture as penalty.

38 (4) A taxpayer may apply to the director for a tax credit transfer
39 certificate in lieu of applying any amount of the credit provided
40 pursuant to this section against its tax liability. The tax credit
41 transfer certificate, upon receipt thereof by the taxpayer from the
42 director, may be sold or assigned, in full or in part, to any other
43 taxpayer that may have a tax liability under the "New Jersey Gross
44 Income Tax Act," N.J.S.54A:1-1 et seq., in exchange for private
45 financial consideration to be provided by the purchaser or assignee
46 to the taxpayer that is eligible for the credit. The certificate
47 provided to the taxpayer shall include a statement waiving the
48 taxpayer's right to claim that amount of the credit against the tax

1 imposed pursuant to the “New Jersey Gross Income Tax Act,”
2 N.J.S.54A:1-1 et seq., that the taxpayer has elected to sell or assign.
3 The sale or assignment of any amount of a tax credit transfer
4 certificate allowed under this section shall not be exchanged for
5 consideration received by the taxpayer of less than 75 percent of the
6 transferred credit amount. Any amount of a tax credit transfer
7 certificate used by a purchaser or assignee against a tax liability
8 under the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et
9 seq., shall be subject to the same limitations and conditions that
10 apply to the use of a credit provided by paragraphs (1) and (2) of
11 this section.

12 b. As used in this section:

13 “Qualified disabled veteran” means a resident of this State
14 initially hired by the taxpayer on or after the date of enactment of
15 this act who has been honorably discharged or released under
16 honorable circumstances from active service, occurring on or after
17 January 1, 1990, in any branch of the Armed Forces of the United
18 States and who has been declared by the United States Department
19 of Veterans Affairs, or its successor, to have a service-connected
20 disability rating of 30 percent or greater.

21 “Qualified wages” mean any salaries, wages and remuneration
22 subject to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
23 et seq., paid to a qualified disabled veteran on or after January 1,
24 2017 but before January 1, 2020 for labor rendered in service to an
25 enterprise of the taxpayer.

26 “Sustained employment” means a period of time no less than 185
27 business days during the taxable year in which a qualified disabled
28 veteran is earning qualified wages.

29

30 3. This act shall take effect immediately.

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32

33 STATEMENT

34

35 This bill establishes credits under the corporation business tax
36 and gross income tax for employers who employ certain disabled
37 veterans. The purpose of the bill is to encourage employers to hire
38 certain disabled veterans who are seeking employment.

39 This bill provides an employer with a gross income tax or
40 corporation business tax credit equal to 15 percent of the wages
41 paid to a qualified disabled veteran, up to a maximum of \$1,800 per
42 disabled veteran per taxable year or privilege period. A qualified
43 disabled veteran is a resident of the State, initially hired by the
44 employer on or after the date of enactment, who has been honorably
45 discharged or released under honorable circumstances from active
46 service, on or after January 1, 1990, from any branch of the Armed
47 Forces of the United States and who has been determined by the
48 U.S. Department of Veterans Affairs to have a service-connected

1 disability rating of 30 percent or higher. The VA uses a scale
2 ranging from 10 to 100 percent, in increments of 10 percent,
3 depending on the severity of the condition or illness to rate the
4 extent of a veteran's disability.

5 The credits established by this bill are temporary in that qualified
6 wages are those wages paid by the employer to a qualified disabled
7 veteran on or after January 1, 2017, but before January 1, 2020.
8 The qualified disabled veteran must be employed for a least 185
9 business days of the taxable year or privilege period for which a
10 credit is claimed.

11 The bill contains provisions that prevent the potential for misuse
12 of the tax credit. A taxpayer may not claim a credit established by
13 this bill if the wages paid by that taxpayer to a qualified disabled
14 veteran are already included in the calculation of any State tax
15 credit or grant for the same tax year. If it is determined that a
16 taxpayer is displacing current employees and replacing them with
17 qualified disabled veterans for the primary purposes of utilizing a
18 credit in this bill, the credit will be denied, and if any credit was
19 previously allowed, it would be recaptured by the State and a
20 penalty assessed against the taxpayer.

21 The bill contains certain restrictions that prevent the corporation
22 business tax credit provided by this bill from being used in
23 conjunction with any other corporation business tax credit available
24 to the taxpayer so as to exceed 50 percent of the tax liability
25 otherwise due, or to reduce the taxpayer's corporation business tax
26 liability to an amount less than the minimum required by statute.
27 Similarly, the gross income tax credit provided by this bill may not
28 be used to reduce a taxpayer's liability to an amount less than zero.
29 Any unused credit resulting from those restrictions may be carried
30 forward over seven tax years by the taxpayer.

31 The bill also provides that a taxpayer eligible for a credit under
32 this bill may apply to the Director of the Division of Taxation in the
33 Department of the Treasury for a tax credit transfer certificate, in
34 lieu of applying the credit against its tax liability. A tax credit
35 transfer certificate may be sold or assigned to another taxpayer who
36 has a corporation business tax or gross income tax liability in
37 exchange for financial consideration of not less than 75 percent of
38 the transferred credit amount.