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.

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

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

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

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

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

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

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

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

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

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

b. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

b. As used in this section:

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

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

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

3. This act shall take effect immediately.

STATEMENT

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

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

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

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

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

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

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