

ASSEMBLY, No. 727

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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

Introduced Pending Technical Review by Legislative Counsel.



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:

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

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

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

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

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

STATEMENT

This bill allows for a gross income tax exclusion for capital gains from the sale of certain employer securities by qualified businesses that result in the retention of full-time jobs that yield a net positive benefit to the State. The gross income tax exclusion will be contingent upon the qualified business receiving pre-transaction certification from the New Jersey Economic Development Authority, that considering the gross income tax forgone from the exclusion of income, the transaction will result in the retention of full-time jobs in the qualified business in this State and will yield a net positive benefit to the State. The capital gains or income to be excluded must be 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.

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

A727 JOHNSON

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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.