

ASSEMBLY, No. 1151

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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Assemblymen Mazzeo and Karabinchak

SYNOPSIS

Provides temporary corporation business tax and gross income tax credits for insourcing business to New Jersey.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** providing temporary credits under the corporation business
2 tax and the gross income tax for insourcing business to New
3 Jersey, supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and
4 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 beginning on or after January 1,
10 2019 but before January 1, 2024, a taxpayer shall be allowed a
11 credit for the privilege period against the tax imposed pursuant to
12 section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to 35
13 percent of the taxpayer's insourcing expenses from outside the
14 United States and 25 percent of the taxpayer's insourcing expenses
15 from within the United States but outside this State.

16 The credit shall be allowed for the privilege period during which
17 the written plan to carry out the insourcing has been completed and
18 all insourcing expenses pursuant to the plan have been paid or
19 incurred, provided however, that no credit shall be allowed unless
20 the number of full-time employees of the taxpayer at locations in
21 this State during the privilege period for which the credit is claimed
22 exceeds the number of full-time employees of the taxpayer at
23 locations in this State during the privilege period for which the
24 insourcing expenses were first paid or incurred.

25 An unused credit may be carried forward, if necessary, for use in
26 the four privilege periods following the privilege period for which
27 the credit is allowed, provided it is used before January 1, 2025.

28 If the taxpayer reduces the number of full-time employees at
29 locations in this State in any of the five privilege periods following
30 the privilege period for which the credit is allowed, the director
31 shall issue a tax assessment for the recapture of the credit
32 previously allowed pursuant to this section and shall deny any
33 outstanding credit allowed pursuant to this section.

34 b. The order of priority of the application of the credit allowed
35 pursuant to this section and any other credits allowed by law shall
36 be as prescribed by the director. The amount of the credit applied
37 under this section against the tax imposed pursuant to section 5 of
38 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
39 any other credits allowed by law, shall not exceed 50 percent of the
40 tax liability otherwise due and shall not reduce the tax liability to an
41 amount less than the statutory minimum provided in subsection (e)
42 of section 5 of P.L.1945, c.162 (C.54:10A-5). No amount of
43 expense claimed as a credit pursuant to this section shall be allowed
44 as an amount calculated or claimed pursuant to any other credit
45 against the tax imposed pursuant to section 5 of P.L.1945, c.162
46 (C.54:10A-5).

47 c. As used in this section:

1 “Business unit” means any trade or business, any line of
2 business, and any functional unit of any trade or business or of any
3 line of business.

4 "Full-time employee" means a person employed by the taxpayer
5 for consideration for at least 35 hours a week, or who renders any
6 other standard of service generally accepted by custom or practice
7 as full-time employment, or a person who is employed by a
8 professional employer organization pursuant to an employee leasing
9 agreement between the taxpayer and the professional employer
10 organization, in accordance with P.L.2001, c.260 (C.34:8-67 et
11 seq.) for at least 35 hours a week, or who renders any other standard
12 of service generally accepted by custom or practice as full-time
13 employment, and whose wages are subject to withholding as
14 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
15 et seq. or an employee who is a resident of another State but whose
16 income is not subject to the "New Jersey Gross Income Tax Act,"
17 N.J.S.54A:1-1 et seq., or who renders any other standard of service
18 generally accepted by custom or practice as full-time employment,
19 and whose distributive share of income, gain, loss, or deduction, or
20 whose guaranteed payments, or any combination thereof, is subject
21 to the payment of estimated taxes, as provided in the "New Jersey
22 Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time
23 employee" shall not include any person who works as an
24 independent contractor or on a consulting basis for the taxpayer.

25 “Insourcing expense” means the net of expenses paid or incurred
26 and amounts realized, if any, on liquidation associated with the
27 elimination of a business unit of the taxpayer located outside the
28 United States or in the United States but outside this State, and
29 expenses paid or incurred by the taxpayer in connection with the
30 establishment of a business unit of the taxpayer located within this
31 State that replaces the eliminated unit outside the United States or
32 outside this State, and includes expenses paid or incurred for
33 moving employees, but does not include any compensation or other
34 remuneration paid or incurred in connection with severance from
35 employment; provided however, amounts shall be taken into
36 account only to the extent that those amounts are paid or incurred
37 pursuant to a written plan to carry out the elimination and
38 replacement of the business unit, and provided further, amounts
39 shall be taken into account only to the extent that those amounts do
40 not include expenses paid or incurred by the taxpayer in connection
41 with relocating an existing business unit already present in this
42 State.

43
44 2. a. For taxable years commencing January 1, 2019 through
45 January 1, 2023, a taxpayer shall be allowed a credit for the taxable
46 year against the tax otherwise due for the taxable year pursuant to
47 the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., in
48 an amount equal to 35 percent of the taxpayer’s insourcing expenses

1 from outside the United States and 25 percent of the taxpayer's
2 insourcing expenses from within the United States but outside this
3 State.

4 The credit shall be allowed for the taxable year during which the
5 written plan to carry out the insourcing has been completed and all
6 insourcing expenses pursuant to the plan have been paid or
7 incurred, provided however, that no credit shall be allowed unless
8 the number of full-time employees of the taxpayer during the
9 taxable year for which the credit is claimed exceeds the number of
10 full-time employees of the taxpayer during the taxable year for
11 which the insourcing expenses were first paid or incurred.

12 If the taxpayer reduces the number of full-time employees at
13 locations in this State in any of the five taxable years following the
14 taxable year for which the credit is allowed, the director shall issue
15 a tax assessment for the recapture of the credit previously allowed
16 pursuant to this section.

17 b. The order of priority of the application of the credit allowed
18 pursuant to this section and any other credits allowed by law shall
19 be as prescribed by the director. The amount of the credit applied
20 under this section against the tax imposed pursuant to "New Jersey
21 Gross Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year
22 together with any other credits allowed by law, shall not exceed 50
23 percent of the tax liability otherwise due. No amount of expense
24 claimed as a credit pursuant to this section shall be allowed as an
25 amount calculated or claimed pursuant to any other credit against
26 the tax imposed pursuant to "New Jersey Gross Income Tax Act,"
27 N.J.S.54A:1-1 et seq.

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

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

46 c. As used in this section:

1 “Business unit” means any trade or business, any line of
2 business, and any functional unit of any trade or business or of any
3 line of business.

4 "Full-time employee" means a person employed by the taxpayer
5 for consideration for at least 35 hours a week, or who renders any
6 other standard of service generally accepted by custom or practice
7 as full-time employment, or a person who is employed by a
8 professional employer organization pursuant to an employee leasing
9 agreement between the taxpayer and the professional employer
10 organization, in accordance with P.L.2001, c.260 (C.34:8-67 et
11 seq.) for at least 35 hours a week, or who renders any other standard
12 of service generally accepted by custom or practice as full-time
13 employment, and whose wages are subject to withholding as
14 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
15 et seq. or an employee who is a resident of another State but whose
16 income is not subject to the "New Jersey Gross Income Tax Act,"
17 N.J.S.54A:1-1 et seq. or who is a partner of a taxpayer who works
18 for the partnership for at least 35 hours a week, or who renders any
19 other standard of service generally accepted by custom or practice
20 as full-time employment, and whose distributive share of income,
21 gain, loss, or deduction, or whose guaranteed payments, or any
22 combination thereof, is subject to the payment of estimated taxes, as
23 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
24 et seq. "Full-time employee" shall not include any person who
25 works as an independent contractor or on a consulting basis for the
26 taxpayer.

27 “Insourcing expense” means the net of expenses paid or incurred
28 and amounts realized, if any, on liquidation associated with the
29 elimination of a business unit of the taxpayer located outside the
30 United States or in the United States but outside this State, and
31 expenses paid or incurred by the taxpayer in connection with the
32 establishment of a business unit of the taxpayer located within this
33 State that replaces the eliminated unit outside the United States or
34 outside this State, and includes expenses paid or incurred for
35 moving employees, but does not include any compensation or other
36 remuneration paid or incurred in connection with severance from
37 employment; provided however, amounts shall be taken into
38 account only to the extent that those amounts are paid or incurred
39 pursuant to a written plan to carry out the elimination and
40 replacement of the business unit, and provided further, amounts
41 shall be taken into account only to the extent that those amounts do
42 not include expenses paid or incurred by the taxpayer in connection
43 with relocating an existing business unit already present in this
44 State.

45

46 3. This act shall take effect immediately and apply to privilege
47 periods and taxable years beginning on or after January 1, 2019.

STATEMENT

This bill provides, for a five-year period, corporation business tax credits and gross income tax credits for insourcing business to New Jersey.

Insourcing is bringing business functions to this State by closing down an out of country or out of State business unit and relocating it to New Jersey. For decades businesses have had incentives to outsource business functions, pursuing lower tax rates or labor costs. The credit provided by this bill aims to reverse that trend by incentivizing businesses to relocate to New Jersey and take advantage of the State's robust and diverse labor pool.

The credits are equal to 35 percent of the net cost of shutting down the out of country business unit, or 25 percent of the net cost of shutting down the out of State business unit, and reestablishing an equivalent unit in New Jersey. The credit will be earnable in the five years between January 1, 2019 and December 31, 2023.

The bill requires that the relocation be done pursuant to a written plan, and that the New Jersey full-time employees of the business be increased by the completed relocation. If the taxpayer reduces the amount of full-time employees in this State in any of the five years subsequent to the credit being allowed, the credit outstanding will be denied and any amount previously allowed will be subject to recapture by the State.