

ASSEMBLY, No. 4840

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED OCTOBER 19, 2020

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)
Assemblyman DANIEL R. BENSON
District 14 (Mercer and Middlesex)
Assemblyman THOMAS P. GIBLIN
District 34 (Essex and Passaic)

Co-Sponsored by:

Assemblymen Moen and Dancer

SYNOPSIS

Provides temporary corporation business tax and gross income tax credits for job creation related to manufacturing of personal protective equipment.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/14/2020)

1 **AN ACT** providing temporary corporation business tax and gross
2 income tax credits for job creation related to manufacturing of
3 personal protective equipment, supplementing P.L.1945, c.162
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 ending in 2020, 2021, and 2022, a
10 taxpayer, upon approval of an application to the director shall be
11 allowed a credit against the tax imposed pursuant to section 5 of
12 P.L.1945, c.162 (C.54:10A-5) in the amount of \$10,000 for each
13 qualifying new hire involved in the manufacture of personal
14 protective equipment in the State during the privilege period.

15 b. The total credit allowed to a taxpayer during the privilege
16 period shall not exceed \$500,000.

17 c. Notwithstanding the minimum tax schedule imposed
18 pursuant to subsection (e) of section 5 of P.L.1945, c.162
19 (C.54:10A-5), if the amount of the tax credit allowed exceeds the
20 amount of corporation business tax otherwise due pursuant to
21 section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess
22 shall be treated as a refundable overpayment except that interest
23 shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-
24 15.1) on the amount of overpayment attributable to this credit
25 amount. The director shall determine the order of priority of the
26 application of the credit allowed pursuant to this section and any
27 other credits allowed by law.

28 d. The combined value of all tax credits approved by the
29 director pursuant to this section and pursuant to section 2 of P.L. ,
30 c. (C.)(pending before the Legislature as this bill) shall not
31 exceed \$10,000,000 in any State fiscal year to apply against the tax
32 imposed pursuant to the “New Jersey Gross Income Tax Act,”
33 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of
34 P.L.1945, c.162 (C.54:10A-5).

35 e. An application for the tax credit shall be submitted to the
36 Division of Taxation in the Department of Treasury in a form and
37 manner prescribed by the director.

38 f. Notwithstanding any provision of the “Administrative
39 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
40 contrary, the director is authorized to adopt immediately upon filing
41 with the Office of Administrative Law such rules and regulations
42 shall be effective for a period not to exceed 360 days following the
43 date of filing and may thereafter be amended, adopted, or readopted
44 by the director in accordance with the requirements of P.L.1968,
45 c.410 (C.52:14B-1 et seq.). The director shall consult with the
46 Commissioner of Health related to any specification requirements
47 for what manufactured products are to qualify as personal protective
48 equipment pursuant to this section.

1 g. As used in this section:

2 “Director” means Director of the Division of Taxation;

3 “Personal protective equipment” means coveralls, face shields,
4 gloves, gowns, masks, respirators, and other equipment designed to
5 protect the wearer from the spread of infection or illness.

6 “Qualifying new hire” means a full-time employee hired by the
7 taxpayer during the privilege period for the manufacturing of
8 personal protective equipment in this State. The person hired shall
9 be employed for at least 35 hours a week, or render any other
10 standard of service generally accepted by custom or practice as full-
11 time employment, whose wages are subject to withholding as
12 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
13 et seq. “Qualifying new hire” shall not include any person who
14 works as an independent contractor or on a consulting basis for the
15 business. “Qualifying new hire” includes only a position for which
16 the taxpayer provides employee health benefits under a group health
17 plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54),
18 a health benefits plan as defined under section 1 of P.L.1992, c.162
19 (C.17B:27A-17), or a policy or contract of health insurance
20 covering more than one person issued pursuant to Article 2 of
21 chapter 27 of Title 17B of the New Jersey Statutes.

22

23 2. a. For taxable years 2020, 2021, and 2022, a taxpayer, upon
24 approval of an application to the director shall be allowed a credit
25 against the tax imposed pursuant to the “New Jersey Gross Income
26 Tax Act” N.J.S.54A:1-1 et seq. in the amount of \$10,000 for each
27 qualifying new hire involved in the manufacture of personal
28 protective equipment in the State during the taxable year.

29 b. The total credit allowed to a taxpayer during the taxable year
30 shall not exceed \$500,000.

31 c. If the amount of the credit exceeds the amount of tax
32 otherwise due, that amount of excess shall be an overpayment for
33 the purposes of N.J.S.54A:9-7; provided however, that subsection
34 (f) of N.J.S.54A:9-7 shall not apply. The director shall determine
35 the order of priority of the application of the credit allowed
36 pursuant to this section and any other credits allowed by law.

37 d. (1) A business entity that is classified as a partnership for
38 federal income tax purposes shall not be allowed a tax credit
39 pursuant to this section directly, but the amount of tax credit of a
40 taxpayer in respect to distributive share of entity income, shall be
41 determined by allocating to the taxpayer that proportion of the tax
42 credit acquired by the entity that is equal to the taxpayer’s share,
43 whether or not distributed, of the total distributive income or gain
44 of the entity for its taxable year ending within or with the
45 taxpayer’s taxable year.

46 (2) A New Jersey S Corporation shall not be allowed a tax credit
47 pursuant to this section directly, but the amount of the tax credit of
48 a taxpayer in respect of a pro rata share of S Corporation income,

1 shall be determined by allocating to the taxpayer that proportion of
2 the tax credit acquired by the New Jersey S Corporation that is
3 equal to the taxpayer's share, whether or not distributed, of the total
4 pro rata share of S Corporation income of the New Jersey S
5 Corporation for its privilege period ending within or with the
6 taxpayer's taxable year.

7 e. The combined value of all tax credits approved by the
8 director pursuant to this section and pursuant to section 1 of P.L. ,
9 c. (C.)(pending before the Legislature as this bill) shall not
10 exceed \$10,000,000 in any State fiscal year to apply against the tax
11 imposed pursuant to the "New Jersey Gross Income Tax Act,"
12 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of
13 P.L.1945, c.162 (C.54:10A-5).

14 f. An application for the tax credit shall be submitted to the
15 Division of Taxation in the Department of Treasury in a form and
16 manner prescribed by the director.

17 g. Notwithstanding any provision of the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
19 contrary, the director is authorized to adopt immediately upon filing
20 with the Office of Administrative Law such rules and regulations
21 shall be effective for a period not to exceed 360 days following the
22 date of filing and may thereafter be amended, adopted, or readopted
23 by the director in accordance with the requirements of P.L.1968,
24 c.410 (C.52:14B-1 et seq.). The director shall consult with the
25 Commissioner of Health related to any specification requirements
26 for what manufactured products are to qualify as personal protective
27 equipment pursuant to this section.

28 h. As used in this section:

29 "Director" means Director of the Division of Taxation;

30 "Personal protective equipment" means coveralls, face shields,
31 gloves, gowns, masks, respirators, and other equipment designed to
32 protect the wearer from the spread of infection or illness.

33 "Qualifying new hire" means a full-time position created by the
34 taxpayer during the taxable year for the manufacturing of personal
35 protective equipment in the State. The person hired shall be
36 employed for at least 35 hours a week, or render any other standard
37 of service generally accepted by custom or practice as full-time
38 employment, whose wages are subject to withholding as provided in
39 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
40 "Qualifying new hire" shall not include any person who works as an
41 independent contractor or on a consulting basis for the business.
42 "Qualifying new hire" includes only a position for which the
43 taxpayer provides employee health benefits under a group health
44 plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54),
45 a health benefits plan as defined under section 1 of P.L.1992, c.162
46 (C.17B:27A-17), or a policy or contract of health insurance
47 covering more than one person issued pursuant to Article 2 of
48 chapter 27 of Title 17B of the New Jersey Statutes.

1 3. This act shall take effect immediately.

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STATEMENT

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6 This bill provides corporation business tax and gross income tax
7 credits to taxpayers that create jobs involved in the manufacturing
8 of personal protective equipment in the State in response to the
9 COVID-19 pandemic. Under the bill, personal protective
10 equipment includes coveralls, face shields, gloves, gowns, masks,
11 respirators, and other equipment designed to protect the wearer
12 from the spread of infection or illness.

13 The bill establishes the credit at \$10,000 for each new hire, if the
14 job is related to the manufacturing of personal protective
15 equipment. The maximum credit for any individual taxpayer is
16 \$500,000 and the overall cap on the value of all credits awarded is
17 \$10,000,000 for each State fiscal year. Taxpayers are required to
18 apply for the tax credit in a manner prescribed by the Division of
19 Taxation, and the Director of the Division of Taxation is
20 responsible for determining the order of priority for the application
21 of the credits. The bill provides that if the amount of the credit
22 exceeds the tax due, the amount in excess is to be treated as an
23 overpayment and be refunded to the taxpayer. This bill takes effect
24 immediately and expires after two years.

25 The bill defines a “qualifying new hire” to mean a full-time
26 position in this State that requires employment of a person for at
27 least 35 hours a week or other service that can be deemed full-
28 employment, and whose wages are subject to withholding per the
29 “New Jersey Gross Income Tax Act.” Additionally, the qualifying
30 new hire only includes positions for which the taxpayer provides
31 the employee with certain minimum health insurance.

32 The bill authorizes the Director of the Division of Taxation to
33 adopt rules and regulations immediately upon filing with the Office
34 of Administrative Law to administer the bill, and requires the
35 director to consult with the Commissioner of Health related to any
36 specification requirements for what manufactured products are to
37 qualify as personal protective equipment under the bill.