

SENATE, No. 489

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator CHRIS A. BROWN

District 2 (Atlantic)

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District 21 (Morris, Somerset and Union)

SYNOPSIS

Provides gross income tax credit for A-list performing artists for income derived from certain live performances contracted for and rendered within the Atlantic City Tourism District on a recurring basis and within the State.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** providing a gross income tax credit for A-list performing
2 artists for income derived from certain live performances
3 contracted for and rendered within the Atlantic City Tourism
4 District and within additional New Jersey locations,
5 supplementing Title 54A of the New Jersey Statutes.

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

9
10 1. a. A taxpayer who is an A-list performing artist, as shall be
11 determined by the Secretary of State pursuant to an annual review,
12 to be completed in advance of and to apply to the next taxable year,
13 of entertainment and sports performers' occupational rankings of
14 live public performance demand in major national venues and pay-
15 per-view media, including categories of entertainment and sports
16 performance occupations including but not limited to musicians,
17 singers, dancers, actors, comics, athletic and sports competitors
18 participating in professional, organized, officiated sporting events
19 to entertain spectators, who renders live personal services to
20 entertain spectators as an entertainment or sports performer,
21 contracted for and rendered on at least four occasions within any
22 taxable year within the Atlantic City Tourism District, shall be
23 allowed a credit against the gross income tax liability on income
24 derived from these services performed in the district and elsewhere
25 within the State during a taxable year, calculated as if the income
26 derived from these services were subject to tax at the highest
27 marginal tax rate as applies to the taxpayer pursuant to N.J.S.
28 54A:1-1 et seq. during that taxable year, upon prior written
29 authorization therefor by the Director of the Division of Taxation in
30 the Department of the Treasury. Live personal services to entertain
31 spectators as an entertainment or sports performer, for which a tax
32 credit may be claimed under this act, shall be pursuant to live
33 performance contracts entered into before the expiration of the fifth
34 calendar year beginning after the date of enactment.

35 b. A business classified as a partnership for federal income tax
36 purposes shall not be allowed a credit directly, but the amount of
37 credit of a taxpayer in respect of a distributive share of partnership
38 income, shall be determined by allocating to the taxpayer that
39 proportion of the credit acquired by the partnership that is equal to
40 the taxpayer's share, whether or not distributed, of the total
41 distributive income or gain of the partnership for its taxable year
42 ending within or with the taxpayer's taxable year except as
43 otherwise provided by law.

44 A business that is a New Jersey S Corporation shall not be
45 allowed a credit directly, but the amount of credit of a taxpayer in
46 respect of a pro rata share of S Corporation income, shall be
47 determined by allocating to the taxpayer that proportion of the
48 credit acquired by the New Jersey S Corporation that is equal to the

1 taxpayer's share, whether or not distributed, of the total pro rata
2 share of S Corporation income of the New Jersey S Corporation for
3 its privilege period ending within or with the taxpayer's taxable
4 year.

5
6 2. a. Notwithstanding the provisions of section 1 of P.L. ,
7 c. (C.) (pending before the Legislature as this bill) to the
8 contrary, a taxpayer shall not be permitted to take a credit allowed
9 in accordance with section 1 of P.L. , c. (C.) (pending
10 before the Legislature as this bill) to reduce New Jersey gross
11 income tax liability unless the taxpayer has obtained prior written
12 authorization from the director in accordance with this section.

13 b. The director shall establish an application process and
14 prescribe the form and manner through which a taxpayer may make
15 and file an application to obtain the director's written authorization
16 for the allowance of a credit.

17 c. The director shall review each application made and filed by
18 a taxpayer in accordance with subsection b. of this section and
19 make a determination regarding the approval of an application
20 seeking the director's written authorization for the allowance of a
21 credit within 90 calendar days of the date a complete application is
22 received.

23 d. The director shall issue a written authorization for the
24 allowance of a credit to each taxpayer that made and filed a
25 complete application that has been reviewed and approved by the
26 director in accordance with subsection c. of this section within five
27 calendar days of the date the director's determination is made.
28 Each taxpayer issued a written authorization for the allowance of a
29 credit shall include a copy of the director's authorization when
30 filing a return that includes a claim for the credit allowed in
31 accordance with section 1 of P.L. , c. (C.) (pending before
32 the Legislature as this bill).

33 e. If the director fails to make a determination regarding the
34 approval of an application seeking the director's written
35 authorization for the allowance of a credit within 90 calendar days
36 of the date a complete application is received, or if the director fails
37 to issue a written authorization for the allowance of a credit within
38 five calendar days of the date the director's determination is made,
39 the application shall be deemed to have been approved and the
40 written authorization shall be deemed to have been issued by the
41 director. Each taxpayer that made and filed a complete application
42 in accordance with subsection b. of this section but fails to receive a
43 determination from the director within 90 calendar days of the date
44 a complete application is received, or fails to receive a written
45 authorization for the allowance of a credit within five calendar days
46 of the date the director's determination is made, shall include a
47 copy of the taxpayer's application when filing a return that includes

1 a claim for the credit allowed in accordance with section 1 of
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3
4 3. Notwithstanding any provision of the “Administrative
5 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the
6 contrary, the Director of the Division of Taxation in the Department
7 of the Treasury may adopt immediately upon filing with the Office
8 of Administrative Law such regulations as the director deems
9 necessary which shall be effective for a period not to exceed 360
10 days following the date of enactment of P.L. , c. (C.)
11 (pending before the Legislature as this bill) and may thereafter be
12 amended, adopted or readopted by the director in accordance with
13 the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

14
15 4. This act shall take effect immediately and apply to taxable
16 years beginning on or after January 1, 2015.

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19 STATEMENT

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21 This bill provides a gross income tax credit for A-list performing
22 artists for income derived from certain live performances contracted
23 for and rendered within the Atlantic City Tourism District and
24 additional locations within the State. This tax credit, which will
25 effectively establish a 100% State income tax exemption for top-
26 ranked national performers who commit to perform periodically in
27 Atlantic City, and for their performances that may occur elsewhere in
28 New Jersey, is intended to generate a net revenue benefit that can be
29 accomplished through the growth in additional tourists visiting and
30 staying in Atlantic City to be entertained by major entertainers and
31 sporting events that become Atlantic City regulars.

32 Top nationally-ranked live performing artists, as will be identified
33 by way of a national review to be annually compiled by the New
34 Jersey Secretary of State, in categories of entertainment and sports
35 performance occupations including but not limited to musicians,
36 singers, dancers, actors, comics, athletic and sports competitors
37 participating in professional, organized, officiated sporting events to
38 entertain spectators, will be eligible to apply for the tax credit if they
39 commit to and actually perform live on at least four occasions within
40 any taxable year within the Atlantic City Tourism District. Tax credits
41 may then also be claimed for live performances in other New Jersey
42 venues within that taxable year. Income from live performances for
43 which a tax credit may be claimed must be pursuant to live
44 performance contracts entered into during the next five calendar years
45 beginning after the date of enactment of this bill. This tax credit must
46 be applied for and allowed pursuant to a written application with the
47 Director of the Division of Taxation under an expedited process. The
48 credit may be applied only against the gross income tax liability on

- 1 income derived from these services performed in the district and other
- 2 State locations during a taxable year, and the credit is to be calculated
- 3 as if the income is subject to tax at the highest marginal tax rate as
- 4 applied to the taxpayer pursuant to the New Jersey gross income tax.