

SENATE, No. 1444

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Provides corporation business and gross income tax credits for three tax years for employers that allow telecommuting.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** providing credits against corporation business and gross
2 income taxes for employers that allow employees to work from
3 home and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.)
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 beginning on or after January 1,
10 2020 but before January 1, 2023, a taxpayer shall be allowed a
11 credit against the tax imposed pursuant to section 5 of P.L.1945,
12 c.162 (C.54:10A-5) for a privilege period in an amount equal to 1%
13 of the salary and wages paid by the taxpayer during the privilege
14 period to a qualified residential telecommuting employee residing
15 in New Jersey during the privilege period multiplied by the
16 percentage of the services that are part of the employee's normal
17 workweek that are performed in the employee's residence.

18 b. As used in this section:
19 "Qualified residential telecommuting employee" means a salaried
20 or hourly employee of the taxpayer who utilizes telecommuting and
21 who, pursuant to a residential telecommuting work arrangement
22 between the taxpayer and that employee entered into after the date
23 of enactment of P.L. , c. (pending before the Legislature as this
24 bill) regularly performs a portion of the services that are part of that
25 employee's normal workweek in the employee's residence in this
26 State, without making any work-related commute trips on the day or
27 days that the employee is telecommuting and is not directly
28 supervised in the conduct of the employee's duties while at the
29 employee's residence. An employee of the taxpayer who was
30 telecommuting during any part of the calendar year preceding the
31 date of enactment of P.L. , c. (pending before the Legislature
32 as this bill) shall not qualify as a "qualified residential
33 telecommuting employee" for purposes of the credit provided by
34 this section.

35 "Residential telecommuting work arrangement" means a written
36 contract between the taxpayer and employee defining the
37 responsibilities of the taxpayer and employee with respect to a job
38 allowing residential telecommuting.

39 "Telecommuting" means an off-site arrangement that permits an
40 employee to work in the employee's residence for all or part of the
41 workweek.

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

46 The amount of the credit applied pursuant to this section against
47 the tax imposed pursuant to section 5 of P.L.1945, c.162
48 (C.54:10A-5), shall not reduce a taxpayer's tax liability to an

1 amount less than the statutory minimum provided in subsection (e)
2 of section 5 of P.L.1945, c.162 (C.54:10A-5).

3 Unused credit may be carried forward, if necessary, for use in the
4 privilege period following the privilege period for which the credit
5 is allowed.

6 d. A taxpayer claiming a credit under this section shall file
7 with the director, on a form to be prescribed by the director, for
8 each qualified residential telecommuting employee, the following
9 information at a minimum: the start date of employment, the date
10 the employee began working from the employee's residence, the
11 total number of hours or days worked per workweek, the number of
12 hours or days per workweek that the employee works from the
13 employee's residence, total salary or wages paid during the
14 privilege period to the employee, and any other information
15 deemed necessary by the director to ensure that taxpayers are
16 claiming this credit only for employees that are working from home
17 pursuant to a residential telecommuting work arrangement entered
18 into after the enactment of P.L. , c. (pending before the
19 Legislature as this bill). A copy of this information required to be
20 filed with the director shall be made available to the qualified
21 residential telecommuting employee and may be provided as part of
22 the statement as to tax withheld on wages requires to be furnished
23 by an employer to an employee pursuant to subsection (c) of
24 N.J.S.54A:8-6.

25 e. Within 90 days of the conclusion of the three-year period
26 during which the credit provided by this section is available, the
27 director shall submit a report to the Legislature pursuant to section
28 2 of P.L.1991, c.164 (C.52:14-19). The report shall include, but not
29 be limited to information on the implementation of the tax credit,
30 costs of the tax credit, employer participation, effectiveness of the
31 credit in increasing the numbers of employees who telecommute in
32 the State, and recommendations as to whether the tax credit should
33 be continued.

34

35 2. a. For taxable years beginning on or after January 1, 2020
36 but before January 1, 2023, a taxpayer shall be allowed a credit
37 against the tax otherwise due for the taxable year under the "New
38 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount
39 equal to 1% of the salary and wages paid by the taxpayer during the
40 taxable year to a qualified residential telecommuting employee
41 residing in New Jersey during the taxable year multiplied by the
42 percentage of the services that are part of the employee's normal
43 workweek that are performed in the employee's residence.

44 b. As used in this section:

45 "Qualified residential telecommuting employee" means a salaried
46 or hourly employee of the taxpayer who utilizes telecommuting and
47 who, pursuant to a residential telecommuting work arrangement
48 between the taxpayer and that employee entered into after the date

1 of enactment of P.L. , c. (pending before the Legislature as this
2 bill) regularly performs a portion of the services that are part of that
3 employee's normal workweek in the employee's residence in this
4 State, without making any work-related commute trips on the day or
5 days that the employee is telecommuting and is not directly
6 supervised in the conduct of the employee's duties while at the
7 employee's residence. An employee of the taxpayer who was
8 telecommuting during any part of the calendar year preceding the
9 date of enactment of P.L. , c. (pending before the Legislature
10 as this bill) shall not qualify as a "qualified residential
11 telecommuting employee" for purposes of the credit provided by
12 this section.

13 "Residential telecommuting work arrangement" means a written
14 contract between the taxpayer and employee defining the
15 responsibilities of the taxpayer and employee with respect to a job
16 allowing residential telecommuting.

17 "Telecommuting" means an off-site arrangement that permits an
18 employee to work in the employee's residence for all or part of the
19 workweek.

20 c. The order of priority of the application of the credit allowed
21 pursuant to this section and any other credits allowed against the
22 New Jersey gross income tax due pursuant to N.J.S.54A:1-1 et seq.
23 for a taxable year shall be as prescribed by the director.

24 The amount of the credit applied against the New Jersey gross
25 income tax due pursuant to N.J.S.54A:1-1 et seq. shall not reduce a
26 taxpayer's New Jersey gross income tax liability to an amount less
27 than zero.

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

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

45 e. A taxpayer claiming a credit under this section shall file
46 with the director, on a form to be prescribed by the director, for
47 each qualified residential telecommuting employee, the following
48 information at a minimum: the start date of employment, the date

1 the employee began working from the employee's residence, the
2 total number of hours or days worked per workweek, the number of
3 hours or days per workweek that the employee works from the
4 employee's residence, total salary or wages paid during the taxable
5 year for the employee, and any other information deemed
6 necessary by the director to ensure that taxpayers are claiming this
7 credit only for employees that are working from home pursuant to a
8 residential telecommuting work arrangement with the taxpayer
9 reached after the enactment of P.L. , c. (pending before the
10 Legislature as this bill). A copy of this information required to be
11 filed with the director shall be made available to the qualified
12 residential telecommuting employee and may be provided as part of
13 the statement as to tax withheld on wages requires to be furnished
14 by an employer to an employee pursuant to subsection (c) of
15 N.J.S.54A:8-6.

16 f. Within 90 days of the conclusion of the three-year period
17 during which the credit provided by this section is available, the
18 director shall submit a report to the Legislature pursuant to section
19 2 of P.L.1991, c.164 (C.52:14-19). The report shall include, but not
20 be limited to, information on the implementation of the tax credit,
21 costs of the tax credit, employer participation, effectiveness of the
22 credit in increasing the numbers of employees who telecommute in
23 the State, and recommendations as to whether the tax credit should
24 be continued.

25
26 3. This act shall take effect immediately and apply to privilege
27 periods and taxable years beginning on or after January 1, 2020.
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30 STATEMENT

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32 This bill provides credits against the corporation business and
33 gross income taxes for employers that allow an employee residing
34 in the State to work from home. The credits will be allowed for
35 privilege periods or taxable years beginning on or after January 1,
36 2020 but before January 1, 2023.

37 The amount of the credit allowed per qualified residential
38 telecommuting employee is equal to 1% of the salary or wages paid
39 by the taxpayer during the privilege period or taxable year to the
40 employee, multiplied by the percentage of the services that make up
41 the employee's normal workweek that are performed at the
42 employee's home. An employee cannot have been telecommuting
43 while employed by the taxpayer during the calendar year preceding
44 enactment of this bill. The taxpayer and the employee must have a
45 written contract, agreed to after the enactment of this bill, defining
46 the responsibilities of the taxpayer and employee with respect to the
47 job allowing residential telecommuting.

1 In order to claim a credit provided by this bill, a taxpayer must
2 file a form, to be developed, with the Director of the Division of
3 Taxation. The form will include information about each employee
4 for whom a credit is claimed, including the start date of
5 employment, the date the employee began working from home, the
6 total number of hours or days worked per workweek, the number of
7 hours or day per workweek that the employee worked from home,
8 and total salary or wages paid to the employee during the taxable
9 year or privilege period.

10 The credits are not refundable, however, the corporation business
11 tax credit may be carried forward to the next privilege period if
12 necessary.

13 Within 90 days of the conclusion of the three-year period during
14 which the credits provided by this bill are available, the director is
15 to submit a report to the Legislature that provides information on
16 the implementation of the credits, the costs to the State, the
17 effectiveness of the credits in increasing the numbers of individuals
18 who telecommute in the State, and recommendations as to whether
19 the credits should be continued.