

SENATE, No. 1900

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

Provides tax credit under corporation business tax and gross income tax for certain costs incurred in purchase and installation of certain environmentally responsible business equipment.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** providing a tax credit under the corporation business tax
2 and the gross income tax for certain costs incurred in the
3 purchase and installation of certain environmentally responsible
4 business equipment, supplementing P.L.1945, c.162 (C.54:10A-1
5 et seq.) and chapter 4 of 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 shall be allowed a credit against the tax
11 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in
12 an amount equal to 10% of the amount paid for the purchase and
13 installation of environmentally responsible business equipment
14 which is used or consumed directly and exclusively by the taxpayer
15 in that taxpayer's business, trade, or occupation, if the equipment is
16 certified as environmentally responsible business equipment by the
17 Commissioner of the Department of Environmental Protection in
18 accordance with the terms and conditions of subsection b. of this
19 section.

20 b. (1) To qualify for the tax credit allowed pursuant to this
21 section, the taxpayer shall file an application for a certification from
22 the Commissioner of the Department of Environmental Protection
23 that the equipment purchased and installed by the taxpayer qualifies
24 as environmentally responsible business equipment as that term is
25 defined by subsection i. of this section, and is used or consumed
26 directly and exclusively by the taxpayer in that taxpayer's business,
27 trade, or occupation. The certification shall specifically indicate the
28 date of purchase, the date of installation, a description of the
29 equipment and how it is used or consumed in the taxpayer's
30 business, trade, or occupation, and the amount paid for the purchase
31 and installation of the equipment.

32 (2) The Commissioner of the Department of Environmental
33 Protection shall have 90 days from the date of receipt of a complete
34 application to make a determination as to the issuance of a
35 certification.

36 (3) Upon certification, the Commissioner of the Department of
37 Environmental Protection shall submit a copy thereof to the
38 taxpayer and the director. In filing a tax return that includes a claim
39 for the credit allowed pursuant to this section, the taxpayer shall
40 include a copy of the certification.

41 c. The first privilege period in which a taxpayer may use a
42 credit allowed under this section is the privilege period in which the
43 taxpayer's application made and filed for a certification from the
44 Commissioner of the Department of Environmental Protection is
45 granted.

46 d. The amount of any unused credit may be carried forward, if
47 necessary, for use in each of the seven privilege periods following
48 the privilege period for which the credit is allowed.

1 e. The order of priority of the application of the credit allowed
2 pursuant to this section and any other credits allowed by law shall
3 be as prescribed by the director. The amount of the credit applied
4 under this section against the tax imposed pursuant to section 5 of
5 P.L.1945, c.162 for a privilege period, together with any other
6 credits allowed against the tax imposed pursuant to section 5 of
7 P.L.1945, c.162, shall not exceed 50% of the tax liability otherwise
8 due and shall not reduce the tax liability to an amount less than the
9 statutory minimum provided in subsection (e) of section 5 of
10 P.L.1945, c.162.

11 f. A credit shall not be allowed pursuant to this section for the
12 purchase and installation of environmentally responsible business
13 equipment which is included in the calculation of another credit
14 allowed against the tax imposed pursuant to section 5 of P.L.1945,
15 c.162 for the same or a prior privilege period by the same or another
16 taxpayer.

17 g. The Commissioner of the Department of Environmental
18 Protection shall establish a tax credit pre-certification process
19 through which a taxpayer can determine if an expected purchase
20 and installation of environmentally responsible business equipment
21 would be eligible to qualify for a credit allowed pursuant to this
22 section. The tax credit pre-certification process established by the
23 commissioner may require the submission of written information
24 describing the equipment to be purchased and how it is intended to
25 be used or consumed in the taxpayer's business, trade, or
26 occupation; provided however, that obtaining pre-certification from
27 the commissioner shall not be required to qualify for a credit
28 allowed pursuant to this section.

29 h. The Commissioner of the Department of Environmental
30 Protection, in consultation with the director, shall adopt rules and
31 regulations in accordance with the "Administrative Procedure Act,"
32 P.L.1968, c.410 (C.52:14B-1 et seq.), establishing technical
33 specifications and certification requirements for the qualification of
34 environmentally responsible business equipment pursuant to this
35 section. Such rules and regulations shall include examples of
36 environmentally responsible business equipment and the procedures
37 and forms to apply for a certification.

38 i. As used in this section:

39 "Environmentally responsible business equipment" means
40 machinery, apparatus, or equipment which is used directly and
41 primarily in producing, fabricating, processing, printing or
42 imprinting tangible personal property, and which (1) has not
43 previously been put in service in New Jersey, (2) has a useful life
44 exceeding one year, and (3) is powered predominately by a system
45 of renewable energy or exceeds by a substantial margin the average
46 energy efficiency consumption or usage standards of all other
47 comparable machinery, apparatus, or equipment available to the
48 taxpayer at the time of purchase.

1 “Renewable energy” means (1) electric energy produced from
2 solar technologies, photovoltaic technologies, wind energy, fuel
3 cells, geothermal technologies, wave or tidal action, methane gas
4 from landfills, a resource recovery facility, a hydropower facility or
5 a biomass facility; and (2) energy produced from solar thermal or
6 geothermal technologies.

7
8 2. a. A taxpayer shall be allowed a credit against the tax
9 otherwise due for the taxable year under the “New Jersey Gross
10 Income Tax Act,” N.J.S.54A:1-1 et seq., in an amount equal to 10%
11 of the amount paid for the purchase and installation of
12 environmentally responsible business equipment which is used or
13 consumed directly and exclusively by the taxpayer in that
14 taxpayer’s business, trade, or occupation, if the equipment is
15 certified as environmentally responsible business equipment by the
16 Commissioner of the Department of Environmental Protection in
17 accordance with the terms and conditions of subsection b. of this
18 section.

19 b. (1) To qualify for the tax credit allowed pursuant to this
20 section, the taxpayer shall file an application for a certification from
21 the Commissioner of the Department of Environmental Protection
22 that the equipment purchased and installed by the taxpayer qualifies
23 as environmentally responsible business equipment as that term is
24 defined by subsection i. of this section, and is used or consumed
25 directly and exclusively by the taxpayer in that taxpayer’s business
26 trade or occupation. The certification shall specifically indicate the
27 date of purchase, the date of installation, a description of the
28 equipment and how it is used or consumed in the taxpayer’s
29 business, trade, or occupation, and the amount paid for the purchase
30 and installation of the equipment.

31 (2) The Commissioner of the Department of Environmental
32 Protection shall have 90 days from the date of receipt of a complete
33 application to make a determination as to the issuance of a
34 certification.

35 (3) Upon certification, the Commissioner of the Department of
36 Environmental Protection shall submit a copy thereof to the
37 taxpayer and the director. In filing a tax return that includes a claim
38 for the credit allowed pursuant to this section, the taxpayer shall
39 include a copy of the certification.

40 c. The first taxable year in which a taxpayer may claim a credit
41 allowed under this section is the taxable year in which the
42 taxpayer’s application made and filed for a certification from the
43 Commissioner of the Department of Environmental Protection is
44 granted.

45 d. The amount of any unused credit may be carried forward, if
46 necessary, for use in each of the seven taxable years following the
47 taxable year for which the credit is allowed.

1 e. The order of priority of the application of the credit allowed
2 pursuant to this section and any other credits allowed by law shall
3 be as prescribed by the director. The amount of the credit applied
4 under this section against the tax imposed pursuant to N.J.S.54A:1-
5 1 et seq. for a taxable year, together with any other credits allowed
6 against the tax imposed pursuant to N.J.S.54A:1-1 et seq., shall not
7 exceed 50% of the taxpayer's liability for tax for the taxable year.

8 f. A credit shall not be allowed pursuant to this section for the
9 purchase and installation of environmentally responsible business
10 equipment which is included in the calculation of another credit
11 allowed against the tax imposed pursuant to N.J.S.54A:1-1 et seq.
12 for the same or a prior taxable year by the same or another taxpayer.

13 g. The Commissioner of the Department of Environmental
14 Protection shall establish a tax credit pre-certification process
15 through which a taxpayer can determine if an expected purchase
16 and installation of environmentally responsible business equipment
17 would be eligible to qualify for a credit allowed pursuant to this
18 section. The tax credit pre-certification process established by the
19 commissioner may require the submission of written information
20 describing the equipment to be purchased and how it is intended to
21 be used or consumed in the taxpayer's business, trade, or
22 occupation; provided however, that obtaining pre-certification from
23 the commissioner shall not be required to qualify for a credit
24 allowed pursuant to this section.

25 h. The Commissioner of the Department of Environmental
26 Protection, in consultation with the director, shall adopt rules and
27 regulations in accordance with the "Administrative Procedure Act,"
28 P.L.1968, c.410 (C.52:14B-1 et seq.), establishing technical
29 specifications and certification requirements for the qualification of
30 environmentally responsible business equipment pursuant to this
31 section. Such rules and regulations shall include examples of
32 environmentally responsible business equipment and the procedures
33 and forms to apply for a certification.

34 i. As used in this section:

35 "Environmentally responsible business equipment" means
36 machinery, apparatus, or equipment which is used directly and
37 primarily in producing, fabricating, processing, printing or
38 imprinting tangible personal property, and which (1) has not
39 previously been put in service in New Jersey, (2) has a useful life
40 exceeding one year, and (3) is powered predominately by a system
41 of renewable energy or exceeds by a substantial margin the average
42 energy efficiency consumption or usage standards of all other
43 comparable machinery, apparatus, or equipment available to the
44 taxpayer at the time of purchase.

45 "Renewable energy" means (1) electric energy produced from
46 solar technologies, photovoltaic technologies, wind energy, fuel
47 cells, geothermal technologies, wave or tidal action, methane gas
48 from landfills, a resource recovery facility, a hydropower facility or

1 a biomass facility; and (2) energy produced from solar thermal or
2 geothermal technologies.

3

4 3. This act shall take effect immediately and apply to amounts
5 paid in privilege periods and taxable years beginning on or after the
6 date of enactment.

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STATEMENT

10

11 This bill provides a tax credit under the corporation business tax
12 and the gross income tax for certain costs incurred in the purchase
13 and installation of environmentally responsible business equipment.

14 Under the bill, a taxpayer is eligible to elect to claim a credit in
15 an amount equal to 10 percent of the amount paid for the purchase
16 and installation of environmentally responsible business equipment
17 which is used or consumed directly and exclusively by the taxpayer
18 in that taxpayer's business, trade, or occupation. For purposes of the
19 bill, environmentally responsible business equipment is any
20 machinery, apparatus, or equipment which is used directly and
21 primarily in producing, fabricating, processing, printing or
22 imprinting tangible personal property, and which (1) has not
23 previously been put in service in New Jersey, (2) has a useful life
24 exceeding one year, and (3) is powered predominately by a system
25 of renewable energy or exceeds by a substantial margin the average
26 energy efficiency consumption or usage standards of all other
27 machinery, apparatus, or equipment available to the taxpayer at the
28 time of purchase.

29 The bill provides that a taxpayer must first qualify for a credit in
30 order to be eligible to claim a credit. To qualify, a taxpayer must
31 file an application with the Commissioner of the Department of
32 Environmental Protection who is responsible for issuing a
33 certification denoting that the equipment purchased and installed by
34 the taxpayer qualifies as environmentally responsible business
35 equipment and is used or consumed directly and exclusively by the
36 taxpayer in their business, trade, or occupation.

37 The bill provides that the Commissioner of the Department of
38 Environmental Protection has 90 days after the receipt of a
39 complete application from a taxpayer to make a determination as to
40 the issuance of a certification. If the application submitted by a
41 taxpayer is certified, the director must submit the certification to the
42 Director of the Division of Taxation in the Department of the
43 Treasury and to the taxpayer. That certification is then used by the
44 taxpayer in filing a tax return that includes a claim for the credit.

45 The bill provides that the first privilege period or taxable year in
46 which a taxpayer may use the credit is the privilege period or
47 taxable year in which the certification is granted. The bill also
48 provides that the amount of any unused credit may be carried

1 forward, if, necessary to each of the seven privilege periods or
2 taxable years following the period or year in which the credit is first
3 allowed, but stipulates that a credit is not allowed if the
4 environmentally responsible business equipment is used to secure
5 another credit in the same or prior period or year by the same or
6 another taxpayer.

7 Additionally, the bill requires the Commission of the Department
8 of Environmental Protection to establish a pre-certification process
9 through which a taxpayer can determine if an expected purchase
10 and installation of environmentally responsible business equipment
11 would be eligible to qualify for a credit, and to develop rules and
12 regulations, in consultation with the Director of the Division of
13 Taxation in the Department of Treasury, establishing technical
14 specifications and certification requirements for the qualification of
15 environmentally responsible business equipment. The bill specifies
16 that the pre-certification established by the commissioner may
17 require the submission of certain written information describing the
18 equipment to be purchased and how it is intended to be used or
19 consumed, but that obtaining pre-certification from the
20 commissioner is not required to qualify for a credit.

21 The purpose of this bill is to encourage taxpayers to purchase
22 and use more environmentally responsible business equipment in
23 their business, trade, or occupation.