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.

AN ACT providing a tax credit under the corporation business tax and the gross income tax for certain costs incurred in the purchase and installation of certain environmentally responsible business equipment, supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and chapter 4 of Title 54A of the New Jersey Statutes.

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

1. a. A taxpayer shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to 10% of the amount paid for the purchase and installation of environmentally responsible business equipment which is used or consumed directly and exclusively by the taxpayer in that taxpayer's business, trade, or occupation, if the equipment is certified as environmentally responsible business equipment by the Commissioner of the Department of Environmental Protection in accordance with the terms and conditions of subsection b. of this section.

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

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

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

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

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

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

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

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

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

i. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

i. As used in this section:

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

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

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

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

STATEMENT

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

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

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

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

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

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

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

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