

SENATE, No. 3201

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED NOVEMBER 19, 2020

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator ROBERT W. SINGER

District 30 (Monmouth and Ocean)

Co-Sponsored by:

Senators Holzapfel, Corrado, Cardinale and A.M.Bucco

SYNOPSIS

Provides business taxpayers with gross income tax or corporation business tax deduction for qualifying cleaning expenses incurred due to COVID-19 pandemic.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/7/2020)

1 AN ACT providing businesses with a gross income tax or
2 corporation business tax deduction for qualifying cleaning
3 expenses incurred as a result of the COVID-19 pandemic.
4

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

8 1. a. A taxpayer shall be allowed to deduct from gross income
9 an amount equal to:

10 (1) 50 percent of the qualifying cleaning expenses incurred
11 during the taxable year by the taxpayer; or

12 (2) 65 percent of the qualifying cleaning expenses incurred
13 during the taxable year by a taxpayer that is an eligible small
14 business.

15 b. The deduction allowed pursuant to this section shall be
16 allowed in addition to any other exemptions, deductions, and credits
17 that may be claimed by the taxpayer pursuant to the "New Jersey
18 Gross Income Tax Act," N.J.S.54A:1-1 et seq., including, but not
19 limited to, ordinary and necessary business expenses for qualifying
20 cleaning expenses.

21 c. (1) A taxpayer that is classified as a partnership shall not be
22 allowed a deduction pursuant to this section directly, but the
23 amount of deduction of a taxpayer in respect of a distributive share
24 of partnership income shall be determined by allocating to the
25 taxpayer that proportion of the deduction acquired by the
26 partnership that is equal to the taxpayer's share, whether or not
27 distributed, of the total distributive income or gain of the
28 partnership for its taxable year ending within or with the taxpayer's
29 taxable year.

30 (2) The deduction for a taxpayer that is a corporation that has
31 made a valid election as a New Jersey S corporation pursuant to
32 section 3 of P.L.1993, c.173 (C.54:10A-5.22) may be applied by the
33 shareholders of the S corporation against the tax liability otherwise
34 due pursuant to the "New Jersey Gross Income Tax Act,"
35 N.J.S.54A:1-1 et seq., provided that the amount of deduction that
36 may be used by a shareholder of the S corporation shall be
37 determined by allocating to each shareholder of the S corporation
38 that proportion of the tax deduction of the S corporation that is
39 equal to the shareholder's proportionate share of the S corporation,
40 whether or not distributed, of the total distributive income or gain
41 of the S corporation for its privilege period ending with or within
42 the shareholder's taxable year, and the deduction may be applied by
43 the shareholders against the tax liability otherwise due pursuant to
44 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

45 d. As used in this section:

46 "Eligible small business" means a business entity, including all
47 entities related by common ownership or control, that is
48 independently owned and operated, and that had an average weekly

1 number of full-time employees of not more than 50 employees
2 during the calendar year ending in the business entity's taxable
3 year.

4 "Qualifying cleaning expense" means amounts paid or incurred
5 in the conduct of business for (1) any cleaning services, whether
6 provided by a cleaning service provider or by one or more
7 employees of the taxpayer, that shall be solely needed as a result of
8 the COVID-19 pandemic; and (2) any cleaning products, tools,
9 machinery, personal protective equipment, and other sanitary-
10 related equipment that shall be solely needed as a result of the
11 COVID-19 pandemic. The term "qualifying cleaning expenses"
12 shall not include the cost of manufacturing, producing, importing,
13 or acquiring for the purposes of resale, any cleaning products, tools,
14 machinery, personal protective equipment, and other sanitary-
15 related equipment.

16

17 2. a. A taxpayer shall be allowed to deduct from entire net
18 income an amount equal to:

19 (1) 50 percent of the qualifying cleaning expenses incurred
20 during the privilege period by the taxpayer; or

21 (2) 65 percent of the qualifying cleaning expenses incurred
22 during the privilege period by a taxpayer that is an eligible small
23 business.

24 b. The deduction allowed pursuant to this section shall be
25 allowed in addition to any other exemptions, deductions, and credits
26 that may be claimed by the taxpayer pursuant to the "Corporation
27 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.),
28 including, but not limited to, ordinary and necessary business
29 expenses for qualifying cleaning expenses.

30 c. As used in this section:

31 "Eligible small business" means a business entity, including all
32 entities related by common ownership or control, that is
33 independently owned and operated, and that had an average weekly
34 number of full-time employees of not more than 50 employees
35 during the calendar year ending in the business entity's privilege
36 period.

37 "Qualifying cleaning expense" means amounts paid or incurred
38 in the conduct of business for (1) any cleaning services, whether
39 provided by a cleaning service provider or by one or more
40 employees of the taxpayer, that shall be solely needed as a result of
41 the COVID-19 pandemic; and (2) any cleaning products, tools,
42 machinery, personal protective equipment, and other sanitary-
43 related equipment that shall be solely needed as a result of the
44 COVID-19 pandemic. The term "qualifying cleaning expenses"
45 shall not include the cost of manufacturing, producing, importing,
46 or acquiring for the purposes of resale, any cleaning products, tools,
47 machinery, personal protective equipment, and other sanitary-
48 related equipment.

1 3. This act shall take effect immediately and shall apply to any
2 taxable year or privilege period during which the Public Health
3 Emergency and the State of Emergency declared by the Governor
4 pursuant to Executive Order No. 103 of 2020, or any extension
5 thereof, remain in effect.

6
7
8 STATEMENT
9

10 This bill permits business taxpayers to claim a gross income tax
11 or corporation business tax deduction for qualifying cleaning
12 expenses incurred as a result of the COVID-19 pandemic.

13 Under the bill, the amount of the gross income tax and
14 corporation business tax deductions would equal 50 percent of the
15 qualifying cleaning expenses incurred by the taxpayer during the
16 taxable year or privilege period, as applicable. However, if the
17 taxpayer qualifies as an eligible small business, the amount of the
18 deduction would equal 65 percent of the qualifying cleaning
19 expenses incurred during the taxable year or privilege period. The
20 deduction permitted by this bill would be in addition to the 100
21 percent deduction that is already allowed for qualifying cleaning
22 expenses pursuant to the ordinary and necessary business expense
23 deduction.

24 To qualify as an “eligible small business,” a taxpayer is required
25 to be a business entity, including all entities related by common
26 ownership or control, that (1) is independently owned and operated,
27 and (2) had an average weekly number of full-time employees not
28 greater than 50 employees during the calendar year.

29 As defined in the bill, the term “qualifying cleaning expenses”
30 includes amounts paid in the conduct of business for any cleaning
31 services and cleaning products and equipment (e.g., personal
32 protective equipment) that are solely needed as a result of the
33 COVID-19 pandemic.

34 The bill would take effect on the date of enactment and apply to
35 any taxable year or privilege period during which the Public Health
36 Emergency and the State of Emergency declared by the Governor
37 pursuant to Executive Order No. 103 of 2020, or any extension
38 thereof, remain in effect.