

SENATE, No. 3613

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED APRIL 19, 2021

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Senator VIN GOPAL

District 11 (Monmouth)

Co-Sponsored by:

Senators Diegnan and Lagana

SYNOPSIS

Provides tax credits to small employers that rehire employees laid off for reasons of economy due to COVID-19 public health emergency.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/6/2021)

1 AN ACT providing tax credits to small employers that rehire
2 employees laid off for reasons of economy due to the COVID-19
3 public health emergency.
4

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

8 1. a. For taxable years 2020, 2021, 2022, and any subsequent
9 year in which the COVID-19 public health emergency is in effect
10 pursuant to Executive Order No. 103 of 2020, or any extension
11 thereof, a taxpayer that is a qualified small employer shall be
12 allowed a credit against the tax otherwise due under the "New
13 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount
14 equal to \$250 for each qualified employee rehired or called back
15 from layoff during the taxable year to a vacant position previously
16 held by the qualified employee and from which the qualified
17 employee was terminated for reasons of economy due to the
18 COVID-19 public health emergency.

19 b. The amount of the credits applied under this section for a
20 taxable year, together with any other credits allowed by law, shall
21 not exceed 50 percent of the taxpayer's liability otherwise due for
22 the taxable year. The priority in which credits allowed pursuant to
23 this section and any other credits that shall be taken shall be
24 determined by the director. The amount of the credit otherwise
25 allowable under this section that cannot be applied for the taxable
26 year due to the limitations of this subsection may be carried over, if
27 necessary, to the seven taxable years following the taxable year for
28 which the credit was allowed.

29 c. (1) A business entity that is classified as a partnership for
30 federal income tax purposes shall not be allowed a tax credit
31 pursuant to this section directly, but the amount of tax credit of a
32 taxpayer in respect to distributive share of entity income shall be
33 determined by allocating to the taxpayer that proportion of the tax
34 credit acquired by the entity that is equal to the taxpayer's share,
35 whether or not distributed, of the total distributive income or gain
36 of the entity for its taxable year ending within or with the
37 taxpayer's taxable year.

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

1 d. An application for the tax credit shall be submitted to the
2 Division of Taxation in the Department of the Treasury in a form
3 and manner prescribed by the director.

4 e. 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 is authorized to adopt, immediately upon
7 filing with the Office of Administrative Law, rules and regulations
8 that the director deems necessary to implement the provisions of
9 this section, which rules and regulations shall be effective for a
10 period not to exceed 18 months following the date of filing and may
11 thereafter be amended, adopted, or readopted by the director in
12 accordance with the requirements of P.L.1968, c.410 (C.52:14B-
13 1 et seq.).

14 f. As used in this section:

15 "Qualified employee" means an individual who is employed by
16 the qualified small employer and works an average of 20 or more
17 hours per week over any 13-week period during the taxable year.

18 "Qualified small employer" means a business entity, including
19 all entities related by common ownership or control, that is
20 independently owned and operated, has a North American Industry
21 Classification System code of 44, 45, 62, 71, 72, or 81, and had an
22 average weekly number of full-time employees of not more than
23 100 employees during the taxable year.

24
25 2. a. For privilege periods ending in 2020, 2021, 2022, and any
26 subsequent year in which the COVID-19 public health emergency is
27 in effect pursuant to Executive Order No. 103 of 2020, or any
28 extension thereof, a taxpayer that is a qualified small employer shall
29 be allowed a credit against the tax otherwise due pursuant to section
30 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to \$250 for
31 each qualified employee rehired or called back from layoff during
32 the taxable year to a vacant position previously held by the
33 qualified employee and from which the qualified employee was
34 terminated for reasons of economy due to the COVID-19 public
35 health emergency.

36 b. The amount of the credit applied under this section against
37 the tax imposed pursuant to section 5 of P.L.1945, c.162
38 (C.54:10A-5) for a privilege period, together with any other credits
39 allowed by law, shall not exceed 50 percent of the tax liability
40 otherwise due and shall not reduce the tax liability to an amount
41 less than the statutory minimum provided in subsection (e) of
42 section 5 of P.L.1945, c.162 (C.54:10A-5). The priority in which
43 credits allowed pursuant to this section and any other credits that
44 shall be taken shall be determined by the director. The amount of
45 the credit otherwise allowable under this section that cannot be
46 applied for the privilege period due to the limitations of this
47 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
48 1 et seq.) may be carried over, if necessary, to the seven privilege

1 periods following the privilege period for which the credit was
2 allowed.

3 c. An application for the tax credit shall be submitted to the
4 Division of Taxation in the Department of the Treasury in a form
5 and manner prescribed by the director.

6 d. Notwithstanding any provision of the "Administrative
7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
8 contrary, the director is authorized to adopt, immediately upon
9 filing with the Office of Administrative Law, rules and regulations
10 that the director deems necessary to implement the provisions of
11 this section, which rules and regulations shall be effective for a
12 period not to exceed 18 months following the date of filing and may
13 thereafter be amended, adopted, or readopted by the director in
14 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
15 et seq.).

16 e. As used in this section:

17 "Qualified employee" means an individual who is employed by
18 the qualified small employer and works an average of 20 or more
19 hours per week over any 13-week period during the privilege
20 period.

21 "Qualified small employer" means a business entity, including
22 all entities related by common ownership or control, that is
23 independently owned and operated, has a North American Industry
24 Classification System code of 44, 45, 62, 71, 72, or 81, and had an
25 average weekly number of full-time employees of not more than
26 100 employees during the privilege period.

27
28 3. This act shall take effect immediately.
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31 STATEMENT

32
33 This bill provides tax credits to qualified small employers in an
34 amount equal to \$250 for each qualified employee rehired or called
35 back from layoff during the taxable year to a vacant position
36 previously held by the qualified employee and from which the
37 qualified employee was terminated for reasons of economy due to
38 the COVID-19 public health emergency. Under the bill, a qualified
39 employee is an individual who is employed by the qualified small
40 employer and works an average of 20 or more hours per week over
41 any 13-week period during the year.

42 Under the bill, a qualified small employer is a business entity,
43 including all entities related by common ownership or control, that
44 is independently owned and operated, has a North American
45 Industry Classification System (NAICS) code of 44, 45, 62, 71, 72,
46 or 81, and had an average weekly number of full-time employees of
47 not more than 100 employees during the taxable year. The
48 industries classified under these NAICS codes include: retail trade;

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1 health care and social assistance; arts, entertainment, and
2 recreation; accommodation and food services; and other services
3 (except public administration).

4 The credits would be available for taxable years beginning or
5 privilege periods ending in 2020, 2021, 2022, and any subsequent
6 year in which the COVID-19 public health emergency is in effect
7 pursuant to Executive Order No. 103 of 2020, or any extension
8 thereof.