SYNOPSIS

Allows CBT and GIT tax credits to certain taxpayers that retain employees during COVID-19 pandemic.

CURRENT VERSION OF TEXT

As introduced.
AN ACT allowing tax credits to certain taxpayers that retain
employees during the COVID-19 pandemic.

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

1. a. A qualified taxpayer that is eligible for a federal tax
credit pursuant to section 2301 of the “CARES Act,” Pub.L. 116-
136, 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 the
sum of 20 percent of the federal credit allowed for each qualified
employee.

As used in this section:
“Qualified employee” means a New Jersey based full time, or
full time equivalent, employee, as reported to the Department of
Labor and Workforce Development on the taxpayer’s Employer
Report of Wages Paid (WR-30); and

“Qualified taxpayer” means a taxpayer with no more than 10 full
time, or full time equivalent, employees at any point in 2019 and
until the credit is claimed.

b. The amount of the credit applied under this section against
the tax imposed pursuant to section 5 of P.L.1945, c.162
(C.54:10A-5), for a privilege period, when taken together with any
other credits allowed against the tax imposed pursuant to section 5
of P.L.1945, c.162 (C.54:10-5), 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 (C.54:10A-1 et seq.).

c. The priority in which credits allowed pursuant to this section
and any other credits allowed shall be determined by the director.

2. a. A qualified taxpayer that is eligible for a federal tax
credit pursuant to section 2301 of the “CARES Act,” Public Law
116-136, shall be allowed a credit against the tax imposed pursuant
in an amount equal to the sum of 20 percent of the federal credit
allowed for each qualified employee.

As used in this section:
“Qualified employee” means a New Jersey based full time, or
full time equivalent, employee of the taxpayer, as reported to the
Department of Labor and Workforce Development on the
taxpayer’s Employer Report of Wages Paid (WR-30); and

“Qualified taxpayer” means a taxpayer with no more than 10 full
time, or full time equivalent, employees at any point in 2019 and
until the credit is claimed.

b. The order of priority of the application of the credit allowed
pursuant to this section and any other credits allowed against the New
Jersey gross income tax due pursuant to N.J.S.54A:1-1 et seq. for a
taxable year shall be as prescribed by the director.
c. The amount of the credit applied against the New Jersey gross income tax due pursuant to N.J.S.54A:1-1 et seq. shall not reduce a taxpayer’s New Jersey gross income tax liability to an amount less than zero.

d. A business entity classified as a partnership for federal income tax purposes shall not be allowed a credit directly under the New Jersey gross income tax, but the amount of credit of a taxpayer in respect of a distributive share of partnership income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer’s share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer’s taxable year.

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

3. The Director of the Division of Taxation in the Department of the Treasury is authorized to adopt rules and regulations necessary to implement this act. To the extent practicable, such rules and regulations shall be in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

4. This act shall take effect immediately.

STATEMENT

This bill allows qualified taxpayers to claim a credit equal to 20 percent of the credit they receive under the Employee Retention Credit of the federal “CARES Act.”

The Employee Retention Credit of the federal CARES Act is a credit that can be claimed against employment taxes in an amount equal to 50 percent of qualified wages paid to eligible employees. The federal credit only takes into account wages paid after March 12, 2020 and before January 1, 2021. The federal credit also only takes into account up to $10,000 of qualified wages paid during the period, so the maximum federal credit is $5,000 per employee.

The credit allowed by this bill, to be claimed against the Corporate Business Tax or the Gross Income Tax, is 20 percent of
the amount the taxpayer received under the federal credit for each employee, so the maximum State credit is $1,000 per employee. Only qualified taxpayers would be eligible for the NJ credit, and the taxpayer will only be allowed to claim a credit for NJ based employees. A qualified taxpayer is a taxpayer with 10 or fewer full time employees.