



MAKE AVAILABLE EXISTING BUSINESS TAX CREDITS TO NON-CORPORATE ENTITIES

DESCRIPTION

Amend existing business tax credit law to allow owners and partners of pass-through entities to use them.

BACKGROUND

A pass-through entity is a business where profits are passed through to the owners and partners, who then pay individual gross income taxes on their share, as opposed to traditional corporations, which pay a separate Corporation Business Tax. Pass-through entities include Partnerships, Limited Liability Corporations and S Corporations.

Over the past 15 years, more and more New Jersey businesses are choosing to incorporate as pass-through entities instead of traditional corporations. It is estimated that today only approximately one-third of all businesses are traditional corporations.

The majority of New Jersey's business tax credits for economic development purposes were enacted prior to the boom in pass-through entity business formation. Hence, these tax credits apply only to the Corporation Business Tax, not the Gross Income Tax.

Many of the newer business tax credits are available to pass-through entities. Examples of such credits include the Digital Media and Film Production Tax Credits, the Urban Transit Hub Tax Credit, the Smart Moves for Business program, and a tax credit for employment of disabled individuals.

Examples of important economic development tax credit programs not available to pass-through entity businesses are: Business Retention and Relocation Assistance Grant (BRRAG) tax credits, Manufacturing Equipment and Employment Investment Tax Credits, Research and Development Tax Credits and New Jobs Investment Tax Credits.

NJBIA POSITION

NJBIA supports expanding the pool of businesses eligible for economic incentive programs.

ARGUMENTS IN SUPPORT OF MAKING AVAILABLE EXISTING BUSINESS TAX CREDITS TO PASS-THROUGH ENTITIES

The majority of business tax credits can be used only by corporations through the Corporation Business Tax. These tax credits are not applicable to Gross Income Tax payers. Hence, New Jersey is not making the most of the economic development incentives it offers to businesses.

To keep up with changing business practices, and to have a greater impact on economic development, New Jersey should make all of its business tax credits usable by both corporate and pass-through entities. Awards of tax credits should be based on substantive criteria not form of incorporation.

LEGISLATIVE HISTORY

Every year since 2004, legislation has been introduced allowing owners of S corporations to apply economic development tax credits to their personal income taxes. In the 2008-2009 session A-460 was introduced on January 8, 2008 and referred to the Assembly Commerce and Economic Growth Committee. S-551 was introduced January 8, 2008 and referred to the Senate Commerce Committee.

CONTACT

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