

(e) The unused portion of the credit shall be forfeited if the property is disposed of prior to the end of its recovery period, or ceases to be used in a new or expanded business facility, except where the cessation is due to fire, flood, storm or other casualty, pursuant to the provisions of N.J.S.A. 54:10A-5.10 and 5.11. Except when the cessation is due to fire, flood, storm or other casualty, the taxpayer shall redetermine the amount of credit allowed in earlier years pursuant to the calculation under N.J.S.A. 54:10A-5.10b. The taxpayer shall then file a reconciliation statement with its annual corporation business tax return for the year in which the forfeiture occurs, and pay any additional taxes owed due to the reduction of the amount of credit allowable for such earlier years, together with any penalty and interest for failure to pay any such tax as provided in the State Tax Uniform Procedure Law.

1. If the average number of employees attributable to the qualified investment falls below the minimum number of new jobs created upon which the taxpayer's annual credit was based, the credit shall be redetermined and the excess forfeited for the current tax year and for each succeeding year pursuant to the calculations required under N.J.S.A. 54:10A-5.10c.

(f) N.J.S.A. 54:10A-5.13 requires the taxpayer to make written application to the Director of the Division of Taxation for allowance of the credit. No prior approval will be required if the return and Form 304 claiming the credit are filed on or before the original due date of the return. However, the return will be reviewed upon filing, and the Division will notify the taxpayer if the credit is disallowed. If the taxpayer applies for an extension to file Form CBT-100 or CBT-100S, a letter application from the taxpayer requesting allowance of the credit must accompany the request for extension, Form CBT-200T. The recordkeeping requirements of N.J.S.A. 54:10A-5.12 for qualified property must be followed.

**EXAMPLE**

**New Jersey Investment Tax Credit Calculation**

Corporation ABC in 1994 purchases and installs the following at location D in New Jersey:

1. A newly constructed building for \$1,000,000;
2. Equipment with three year life for \$100,000;
3. Equipment with five year life for \$200,000; and
4. An airplane for \$100,000.

At location E in New Jersey, the corporation makes repairs on existing facilities for \$250,000.

At location F in New Jersey, the corporation purchases a building, owned and used by an unrelated party, for \$500,000.

All locations are in New Jersey. None of the locations are in an urban enterprise zone.

ABC in 1993 had 50 employees, all at location E, with annual payroll of \$2,000,000 and gross receipts of \$5,000,000. In 1994 ABC employs 120 people, 50 at location E, 65 at location D, and five at location F, all with income above \$30,000, and has gross receipts of \$10,000,000 and payroll of \$5,000,000. The 65 employees at location D are all newly hired New Jersey residents with total compensation of \$3,000,000. The corporation business tax liability for ABC in 1994 is \$10,000.

ABC should compute its 1994 New Jersey investment tax credit this way: (Line reference numbers are to Form 304 (1-95) New Jobs Investment Tax Credit.)

First, calculate the allowable investment base as follows:

Qualified investment:			
line 4(a) with three year life	$0.35 \times \$ 100,000 =$		\$ 35,000
line 4(b) with five year life	$0.70 \times 200,000 =$		140,000
line 4(c) with seven year or more life	$1.00 \times 1,000,000 =$		1,000,000
line 5 Sum of lines 4(a), 4(b), and 4(c)			\$1,175,000
The investment base is \$1,175,000.			

(The airplane purchase does not qualify; the repairs at location E do not qualify; and the purchase of existing property at location F does not qualify. See N.J.S.A. 54:10A-5.5 and N.J.A.C. 18:7-3.22(b).)

Second, calculate the number of eligible new jobs created as follows in order to arrive at the new jobs factor:

line 6(a) Average New Jersey employment for this tax year		120
line 6(b) Average New Jersey employment for last tax year		50
line 6(c) Subtract line 6(b) from line 6(a)		70
line 6(d) Divide line 6(a) by 2		60
line 6(e) Number of eligible new jobs		65
line 6(f) Smaller of 6(c), 6(d), or 6(e)		60
line 7(a) Divide line 6(f) by 50 with no remainder		1
line 7(b) Multiply line 7(a) by .005		.005
line 7(c) Enter the smaller of .10 or line 7(b)		.005

(The number of eligible jobs is limited to 60, one-half total employment. ABC is, with \$10,000,000 in gross receipts, not a small taxpayer in 1994.)

The new jobs factor is .005.

Third, calculate the maximum annual credit:

line 8 Multiply line 7(c) $\times$ line 2 $\times$ .2	$.005 \times \$1,175,000 \times .2 =$	\$1,175
line 9 Qualified investment from prior two years		0
line 10 Aggregate Annual Credit:		
(Sum of lines 8, 9(a), 9(b), 9(c), and 9(d))		\$1,175

Fourth, calculate tax attributable to new investment which is eligible to be offset by the credit (which is proportional to compensation of new employees relative to all employees).

line 11 Compensation of all new jobs in New Jersey attributable to the qualified investment	\$3,000,000
line 12 Total compensation of all employees in New Jersey	\$5,000,000
line 13 Divide line 11 by line 12	.60
line 14 Enter tax liability from front page of CBT	
line 15 Multiply line 13 by line 11 CBT-100 page 1	6,000

Fifth, arrive at the allowable credit:

line 16 Multiply line 15 by 50 percent	\$3,000
line 17 Enter the smaller of line 10 or line 16	1,175

New Rule, R.1995 d.461, effective August 21, 1995.

See: 27 N.J.R. 840(a), 27 N.J.R. 3209(a).

Administrative correction.

See: 27 N.J.R. 4908(a).

Public Notice: Inflation adjustments.

See: 27 N.J.R. 4921(a).

Public Notice: Inflation adjustments.

See: 29 N.J.R. 708(a).

Public Notice: Inflation adjustments.

See: 30 N.J.R. 1330(c).

Public Notice: Inflation adjustments.

See: 31 N.J.R. 1112(a).

Public Notice: Inflation adjustments.

See: 32 N.J.R. 1087(b).

Public Notice: Inflation adjustments.

See: 33 N.J.R. 903(a).

Public Notice: Inflation adjustments.

See: 34 N.J.R. 1057(a).

Public Notice: Notice of Corporation Business Tax; New Jobs Investment Tax Credit Revised Inflation Adjustment.

See: 35 N.J.R. 280(a).

Special amendment, R.2003 d.135, effective February 27, 2003 (to expire August 26, 2003).

See: 35 N.J.R. 1573(a).

In (a), added 2.

Adopted concurrent amendment, R.2003 d.370, effective August 22, 2003.

See: 35 N.J.R. 1573(a), 35 N.J.R. 4310(a).

Provisions of R.2003 d.135 adopted without change.

Petition for Rulemaking.

See: 36 N.J.R. 589(b).

Public Notice: Notice of Inflation Adjustments.

See: 37 N.J.R. 1895(b).

Public Notice: Division of Taxation: Corporation Business Tax; New jobs investment tax credit: inflation adjustments.

See: 38 N.J.R. 1477(a).

Public Notice: Notice of inflation adjustments.

See: 39 N.J.R. 1827(a).

### 18:7-3.23 Research credit

(a) A taxpayer shall be allowed a credit against its corporation business tax liability in an amount equal to 10 percent of the excess of the qualified research expenses for the fiscal or calendar accounting year over the base amount, and 10 percent of the basic research payments determined in accordance with IRC Section 41 as in effect on June 30, 1992,

provided that IRC Section 41(h) relating to termination of the availability of the credit in 1995 shall not apply.

(b) For purposes of this section, the term "qualified research expenses" means the sum of the following amounts which are paid or incurred by the taxpayer during the taxable year in carrying on any trade or business of the taxpayer:

1. In-house research expenses; and
2. Contract research expenses.

(c) In general, the term "in-house research expenses" means:

1. Any wages paid or incurred to an employee for qualified services performed by such employee;
2. Any amount paid or incurred for supplies used in the conduct of qualified research; and
3. Under Federal regulations prescribed, any amount paid or incurred to another person for the right to use computers in the conduct of qualified research.

i. Paragraph (c)3 above shall not apply to any amount to the extent that the taxpayer (or any person with whom the taxpayer must aggregate expenditures under subsection IRC 41(f)(1)) receives or accrues any amount from any other person for the right to use substantially identical personal property.

(d) "Qualified services" means services consisting of engaging in qualified research, or engaging in the direct supervision or direct support of research activities which constitute qualified research. If substantially all of the services performed by an individual for the taxpayer during the taxable year consists of engaging in qualified research or engaging in the direct supervision or direct support of research activities which constitute qualified research, the term "qualified services" means all of the services performed by such individual for the taxpayer during the taxable year.

(e) The term "supplies" means any tangible property other than:

1. Land or improvements to land; and
2. Property of a character subject to allowance for depreciation.

(f) The term "wages" means:

1. In general, the term "wages" has the meaning given such term by IRC Section 3401(a).
2. For self-employed individuals and owner-employees, in the case of an employee (within the meaning of IRC Section 401(c)(1)), the term "wages" includes the earned income (as defined in IRC Section 401(c)(2)) of such employee.