

"Base year" means the tax year immediately preceding the year in which a qualified investment was placed in service.

"Cost of qualified equipment" means, and is determined according to, the following criteria:

1. With respect to self-constructed equipment, the term means the cost amount properly charged to the capital account for depreciation in accordance with the Federal income tax law. This includes all charges incurred to produce a particular manufacturing piece of equipment. Costs include engineering designs, drafting, and other consultations required, as well as the physical construction costs associated with the finished product.

2. With respect to purchased equipment, the term is determined to be the net cost or net monetary consideration provided for acquisition of title and/or ownership of the subject property.

3. With respect to equipment acquired by written lease, the term is the minimum amount required by the agreement to be paid over the term of the lease, provided that the minimum amount shall not include any amount required to be paid after the expiration of the useful life of the equipment. Property which a taxpayer leases, rents or licenses to another person is not qualified equipment.

4. The cost of qualified equipment shall not include the value of equipment given in trade or exchange for the equipment purchased for business relocation or expansion.

"Credit allowable" means the credit available after applying limitations listed under (b)2i and ii below.

"Credit available" means the credit earned plus any unused carryover from prior years.

"Credit earned" means the manufacturing equipment portion of the credit plus the employment investment portion of the credit in a given tax year.

"Employee equivalents" means the aggregate hours of qualified part-time employees who worked for the taxpayer for at least 20 hours per week for at least six months. This amount is used to determine the total number of full-time employees and equivalents necessary when calculating the employment investment portion of the credit. The employees must be New Jersey residents domiciled in this State who are working at locations in New Jersey.

"Measurement year" means the tax year immediately following the year in which a qualified investment was placed in service.

"Placed in service," with respect to qualified equipment, means and occurs in the earlier of the following tax years:

1. The tax year in which, under the taxpayer's depreciation practice, the period for depreciation with respect to such property begins; or

2. The taxable year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

"Qualified equipment" means machinery, apparatus or equipment acquired by purchase for use or consumption by the taxpayer directly and primarily in the production of tangible personal property by manufacturing, processing, assembling or refining, as defined pursuant to N.J.S.A. 54:32B-8.13a, having a useful life of four or more years, placed in service in this State. Qualified equipment does not include tangible personal property which the taxpayer contracts or agrees to lease or rent to another person or licenses another person to use. Lease renewals, subleases, or assignments shall not be considered as qualified equipment. See N.J.A.C. 18:24-4.2.

"Useful life" used to distinguish three-year property from all other property, is determined in accordance with section 168 of the Federal Internal Revenue Code.

(b) A corporate taxpayer that acquires qualified manufacturing equipment either by purchase or lease and/or has an increase in New Jersey employees due to the equipment investment is entitled to a corporation business tax credit.

1. The credit earned is subject to the following limitations:

i. The manufacturing equipment portion is limited to two percent of the cost of qualified equipment placed in service up to a maximum credit for the tax year of \$1,000,000.

ii. The employment investment portion is limited to three percent of the cost of qualified equipment, not to exceed a maximum allowed amount of \$1,000 multiplied by the increase in the average number of qualified employees and/or employee equivalents. It is valid for each of the two tax years next succeeding the tax year for which the manufacturing equipment portion is allowed.

2. The two portions combined plus any carryover (the credit available as defined herein) is also subject to the following limitations:

i. The amount of the tax credit shall not reduce the tax liability below 50 percent of the tax liability otherwise due for any tax year or below the statutory minimum tax provided at N.J.S.A. 54:10A-5(e).

ii. See N.J.A.C. 18:7-3.20.

(c) If the total credit earned in the current or prior years is unused due to the limitations contained in (b)2i and ii above, the unused portion may be carried over to the seven tax years succeeding the year in which the credit was earned.

(d) The credit assigned to property that has been disposed of, or which ceases to be qualified equipment prior to the end of its categorized useful life, should be redetermined using the ratios specified below:

THREE-YEAR PROPERTY Number of months qualified use 36	ALL OTHER PROPERTY Number of months qualified use 60
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(e) Property subject to lease agreements shall have a minimum term of four years with a maximum not to exceed 20 years to be considered qualified equipment.

(f) The following example illustrates the application of the credit:

Example:	1993	1994	1995	1996
Cost of qualified equipment placed in service	None	\$3,000,000	\$5,000,000	\$1,000,000
Average employees and/or employee equivalents	125	140	150	160

1994: XYZ Corporation places qualified manufacturing equipment in service in New Jersey during 1994. The cost of the manufacturing equipment, excluding shipping and installation, is \$3,000,000. The taxpayer receives a recycling equipment tax credit of \$10,000 and its corporate tax liability is \$400,000. The manufacturing equipment portion of the credit is \$60,000 (\$3,000,000 cost × two percent, not to exceed \$1,000,000), and the employment investment portion is unavailable until the two years following placement of equipment in service. Therefore, the credit is the lesser of \$60,000 or \$190,000 (50 percent of the tax liability less the recycling equipment credit). In this case the allowable credit for XYZ Corporation is \$60,000, the lesser of the two amounts.

1995: XYZ Corporation places additional qualified equipment in service during 1995, which was acquired through a lease agreement. The lease agreement required \$5,000,000 to be paid over the term of the lease. The taxpayer is not eligible for any other tax credits, and its corporate tax liability is \$220,000. The manufacturing equipment portion of the credit is \$100,000 (\$5,000,000 total lease cost × two percent, not to exceed \$1,000,000). The employment investment portion is \$25,000 (150 measurement year average - 125 base year average = average increase of 25 × \$1,000, not to exceed three percent of the cost of qualified equipment placed in service in New Jersey in 1994). Therefore, the credit is the lesser of \$125,000 (\$100,000 + \$25,000) or \$110,000 (50 percent of the tax liability). In this case the allowable credit for XYZ Corporation is \$110,000, the lesser of the two amounts. The difference between the total of the two credit portions (\$125,000) and the credit allowable (\$110,000), or \$15,000 may be carried over for a maximum of seven years.

1996: Qualified equipment is placed in service during 1996 at a cost of \$1,000,000. The taxpayer is not eligible for any other tax credits, and its corporate tax liability is \$350,000. The manufacturing equipment portion of the credit is \$20,000 (\$1,000,000 total lease cost × two percent, not to exceed \$1,000,000). The employment investment portion is \$45,000, based on calculations for the 1994 and 1995 investments (150 measurement year average - 125 base year average = average increase of 25 × \$1,000 or \$25,000 for the 1994 investment AND 160 measurement year average - 140 base year average = average increase of 20 × \$1,000 or \$20,000 for the 1995 investment). Therefore, the credit is the lesser of \$80,000 (\$20,000 + \$45,000 + \$15,000 carryover from 1995) or \$175,000 (50 percent of the tax liability). In this case the allowable credit for XYZ Corporation is \$80,000, the lesser of the two amounts.

New Rule, R.1995 d.460, effective August 21, 1995.
See: 27 N.J.R. 838(a), 27 N.J.R. 3208(a).

18:7-3.22 New jobs investment tax credit

(a) Corporate taxpayers are allowed a credit against the portion of the corporation business tax that is attributable to, and the direct consequence of, the taxpayer's qualified investment in a new or expanded business facility in this State which results in the creation of new jobs.

1. For a small business taxpayer, as defined in N.J.S.A. 54:10A-5.5, at least five new jobs must be created. For any other taxpayer, at least 50 new jobs must be created. The median annual compensation for the new jobs must be at least \$27,000, adjusted for inflation beginning January 1, 1994 as provided in N.J.S.A. 54:10A-5.6e. Notice of the adjustment shall be published in the New Jersey Register. The employer should rank the new employees by annual compensation. If the middle employee has compensation less than \$27,000, the lowest ranking jobs should be deleted from the list until the median of the remaining list is at least \$27,000. (If there are an even number on the list, the top half must be greater than \$27,000.) The number of employees on this revised list is the number of new jobs created for purposes of this credit.

(b) The amount of the credit shall be determined by multiplying the amount of the taxpayer's qualified investment, as defined in N.J.S.A. 54:10A-5.8, in property purchased for business relocation or expansion, as defined in N.J.S.A. 54:10A-5.5, by the taxpayer's new job factor determined under N.J.S.A. 54:10A-5.9.

1. The amount of the credit shall be taken over a five year period, at the rate of one-fifth of the amount per tax year, beginning with the tax year in which the taxpayer places the qualified investment into service or use in this State.

(c) The aggregate annual credit allowed for a tax year shall be an amount equal to the sum of one-fifth of the allowable credit for qualified investment placed into service or use during a prior tax year, plus one-fifth of the allowable credit for qualified investment placed into service or use during the current tax year.

1. The amount of the credit shall not reduce the tax liability by more than 50 percent of that portion of the taxpayer's tax liability otherwise due for all tax years which is attributable to and the direct result of the taxpayer's qualified investment.

2. The amount of the tax credit shall not reduce the tax liability below the statutory minimum tax provided at N.J.S.A. 54:10A-5.7b.

3. If the credit exceeds the limitations in (c) through (c)2 above, the amount of credit remaining shall be refunded to the taxpayer. The amount refunded to the taxpayer shall not exceed 50 percent of the sum of the amount of property taxes timely paid in the taxable year pursuant to N.J.S.A. 54:4-1 et seq. and the amount of implicit property taxes paid through rent or lease payments in respect of property taxable pursuant to N.J.S.A. 54:4-1 et seq., and for which taxes another party that is not a related person is liable, which is attributable to and the direct result of the taxpayer's qualified investment. Any excess amount may not be carried forward.

(d) The credit shall only be applied against corporation business tax liability attributable to, and the direct result of, the taxpayer's qualified investment.

1. If the taxpayer's liability for corporation business tax, local property tax, and implicit property tax paid through rental or lease on property subject to local tax and for which taxes another party that is not a related person is liable, are not solely attributable to the taxpayer's qualified investment, then the amount of such taxes so attributable may be determined by multiplying the amount of tax due under those tax acts for the tax year by the ratio of compensation paid during the taxable year to all employees of the taxpayer employed in New Jersey whose positions are directly attributable to the qualified investment, to total compensation paid during the taxable year to all employees of the taxpayer employed in New Jersey.

2. Any credits allowable under N.J.S.A. 54:10A-5.3 (recycling tax credit), N.J.S.A. 52:27H-78 (urban enterprise zone credit), and N.J.S.A. 55:19-13 (urban development corporation credit) shall be applied against and reduce only the amount of corporation business tax not apportioned to the qualified investment under this act. Any excess of those credits may be applied against the amount of corporation business tax apportioned to the qualified investment under this act that is not offset by the amount of annual credit against the tax allowed under the act for the tax year, unless their application is otherwise prohibited by the applicable credit statutes.

(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 record-keeping 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).

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.