

CHAPTER 7

CORPORATION BUSINESS TAX ACT

Authority

N.J.S.A. 54:10A-27.

Source and Effective Date

R.2004 d.367, effective September 1, 2004.
See: 36 N.J.R. 1680(a), 36 N.J.R. 4484(a).

Chapter Expiration Date

Chapter 7, Corporation Business Tax Act, expires on September 1, 2009.

Chapter Historical Note

Chapter 7, Corporation Business Tax Act, was filed and became effective prior to September 1, 1969.

Subchapter 9, Assets Allocation Factor, was repealed by R.1979 d.45, effective February 6, 1979. See: 11 N.J.R. 40(d), 11 N.J.R. 150(b).

Pursuant to Executive Order No. 66(1978), Chapter 7, Corporation Business Tax Act, was readopted as R.1984 d.95, effective March 19, 1984. See: 16 N.J.R. 229(a), 16 N.J.R. 746(c).

Subchapter 15, Urban Enterprise Zones Act, was adopted as R.1984 d.496, effective November 5, 1984. See: 16 N.J.R. 1325(a), 16 N.J.R. 3057(a).

Subchapter 16, International Banking Facilities, was adopted as R.1984 d.453, effective October 15, 1984. See: 16 N.J.R. 1327(a), 16 N.J.R. 2827(a).

Pursuant to Executive Order No. 66(1978), Chapter 7, Corporation Business Tax Act, was readopted as R.1989 d.196, effective March 14, 1989. See: 21 N.J.R. 14(a), 21 N.J.R. 1019(b).

Pursuant to Executive Order No. 66(1978), Chapter 7, Corporation Business Tax Act, was readopted as R.1994 d.186, effective March 14, 1994, and Subchapter 6, Valuation, was repealed by R.1994 d.186, effective April 18, 1994. See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Pursuant to Executive Order No. 66(1978), Chapter 7, Corporation Business Tax Act, was readopted as R.1999 d.116, effective March 12, 1999. See: 31 N.J.R. 266(b), 31 N.J.R. 893(a).

Subchapter 17, Partnerships; Subchapter 18, Alternative Minimum Assessment; and Subchapter 19, Filing Fee Payments by Professional Corporations were adopted as special new rules by R.2003 d.135, effective February 27, 2003. Subchapters 17, 18 and 19 were adopted as R.2003 d.370, effective August 22, 2003. See: 35 N.J.R. 1573(a), 35 N.J.R. 4310(a).

Chapter 7, Corporation Business Tax Act, was readopted as R.2004 d.367, effective September 1, 2004. See: Source and Effective Date. See, also, section annotations.

Subchapter 3B, Film Tax Credits, was adopted as new rules and Subchapter 15, Urban Enterprise Zones Act, was recodified as Subchapter 3A by R.2007 d.203, effective July 2, 2007. See: 39 N.J.R. 848(a), 39 N.J.R. 2540(b).

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(d) No member organization may reduce its tax liability by more than 20 percent of the amount (determined without regard to any other credits allowed pursuant to law) otherwise due for a privilege period.

(e) If a member organization should cease doing business in this State, any credit amounts not yet applied against its liability may be applied against its Corporation Business Tax liability for the privilege period that it ceases to do business in this State.

(f) If a member organization receives a refund of an assessment from the association pursuant to N.J.S.A. 17B:32B-9g, the refund will be deemed to be an assessment for which a credit was already allowed. If the member organization has already applied the credit, then 50 percent of the amount of the refund from the association must be paid by the member organization to the Division of Taxation until the amounts paid equal the amounts applied as credit.

(g) To claim the credit, the member organization/taxpayer must complete Form 310 and attach it to the Corporation Business Tax return (Form CBT-100 or CBT-100S) being filed.

New Rule, R.2004 d.367, effective October 4, 2004.
See: 36 N.J.R. 1680(a), 36 N.J.R. 4484(a).

18:7-3.27 Neighborhood revitalization State tax credit

(a) A business entity may be eligible under N.J.S.A. 52:27D-492 for a certificate authorizing a tax credit if it has provided funding for a qualified project that has been approved by the Commissioner of Community Affairs in accordance with N.J.S.A. 52:27D-493. The credit may be up to 50 percent of the approved funding. See N.J.A.C. 5:47 for information on the tax credit.

(b) The credit may not exceed \$500,000 or the total tax liability of the business entity for the taxable year, whichever is less. The credit is not allowed for activities for which the business entity is already receiving another credit. See N.J.A.C. 18:7-3.17 for coordination and limitations on the credit.

(c) The credit is allowed only for funding provided in the same year in which the certificate was issued, or if funding was approved for more than one year, within the year in which payment was scheduled and made.

(d) The tax credit permitted by this section shall not exceed 50 percent of the taxpayer's liability otherwise due and shall not reduce the total tax liability below the statutory minimum.

(e) To claim the credit, the taxpayer must complete Form 311 and attach it to the Corporation Business Tax return (Form CBT-100 or CBT-100S) being filed.

New Rule, R.2004 d.367, effective October 4, 2004.
See: 36 N.J.R. 1680(a), 36 N.J.R. 4484(a).

18:7-3.28 Redevelopment authority project tax credit

(a) A corporation business taxpayer that is actively engaged in the conduct of business, that is manufacturing or other business that is not retail or warehouse oriented, within a project as defined in N.J.S.A. 55:19-3 may apply to claim a credit under N.J.S.A. 55:19-13.

(b) The credit is \$1,500 for each new employee employed at that location who is a resident of the qualified municipality, and who immediately prior to such employment was unemployed at least 90 days or was dependent upon public assistance as the primary source of income.

(c) A credit for which a taxpayer qualifies under this section shall be allowed in the tax year following the tax year of qualification, and may be continued into a second tax year if the qualification continues, but it will be allowed only for those new employees who were employed for at least six consecutive months by the taxpayer in the year of qualification.

(d) The tax credit permitted by this section shall not exceed 50 percent of the taxpayer's liability otherwise due and shall not reduce the total tax liability below the statutory minimum.

(e) To claim the credit, the taxpayer must complete Form 302 and attach it to the Corporation Business Tax return (CBT-100 or CBT-100S) being filed. Inquiries regarding the project should be directed to the New Jersey Redevelopment Authority, PO Box 790, Trenton, NJ 08625-0790.

New Rule, R.2004 d.367, effective October 4, 2004.
See: 36 N.J.R. 1680(a), 36 N.J.R. 4484(a).

SUBCHAPTER 3A. URBAN ENTERPRISE ZONES ACT

Authority

P.L. 1983, c.303, section 22 (N.J.S.A. 52:27H-81)
and N.J.S.A. 54:10A-27.

18:7-3A.1 General

(a) The New Jersey Urban Enterprises Zones Act, Chapter 303, Laws of 1983, N.J.S.A. 52:27H-60 et seq., approved August 15, 1983, provides for the establishment of up to 10 urban enterprise zones in urban areas suffering from high unemployment and economic distress. P.L. 1985, c. 391 made certain changes to eligibility requirements for designation as a zone. P.L. 1988, c. 93 modified the definition of a qualified business, made adjustments to the eligibility requirements for the employee tax credit, and provided for an alternative investment tax credit. P.L. 1993, c. 367 further modified the definition of a qualified business and provided for the designation of 10 additional enterprise zones. Zones are designated by an Urban Enterprise Zone Authority. The Authority may grant certain corporation tax and other benefits to businesses existing in, or formed in, enterprise zones, which have met the definition of a qualified business. This subchapter of the

corporation tax rules sets forth the possible benefits, the necessary definitions, and the procedures for qualifying for any or all of these corporation tax benefits. Rules on the sales and use tax and urban enterprise zones are in N.J.A.C. 18:24-31. For Urban Enterprise Zone Authority rules and policies, see N.J.A.C. 12A:120 and 12A:121.

(b) No business can obtain tax benefits under this subchapter unless it meets the definition of a "qualified business" in N.J.A.C. 18:7-3A.2.

Amended by R.1994 d.419, effective August 15, 1994.

See: 26 N.J.R. 2203(a), 26 N.J.R. 3462(a).

Recodified from N.J.A.C. 18:7-15.1 and amended by R.2007 d.203, effective July 2, 2007.

See: 39 N.J.R. 848(a), 39 N.J.R. 2540(b).

In (a), substituted "c. 391" for "c.391", "c. 93" for "c.93", and "c. 367" for "c.367"; and in (b), updated the N.J.A.C. reference.

18:7-3A.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

A "qualified business" means either:

1. An entity authorized to do business in New Jersey which, at the time of designation as an enterprise zone, is engaged in the active conduct of a trade or business in that zone; or

2. An entity which, after that designation but during the designation period of 20 years, becomes newly engaged in the active conduct of a trade or business in that zone, and has at least 25 percent of its full-time employees employed at a business location in the zone, who meet at least one of the following criteria:

i. Resident within the zone, within another zone, or within a qualifying municipality;

ii. Either unemployed, while residing in New Jersey, for at least six months prior to being hired, or recipients of New Jersey public assistance programs, for at least six months prior to being hired;

iii. Determined to be economically disadvantaged pursuant to the Jobs Training Partnership Act, P.L. 97-300 (29 U.S.C. §§ 1501 et seq.). Section 1503(8) of that Act defines the term as follows:

"The term 'economically disadvantaged' means an individual who (A) receives, or is a member of a family which receives, cash welfare payments under a Federal, state or local welfare program; (B) has, or is a member of a family which has received a total family income for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the

lower living standard income level; (C) is receiving food stamps pursuant to the Food Stamp Act of 1977; (D) is a foster child on behalf of whom state or local government payments are made; or (E) in cases permitted by regulations of the Secretary (U.S. Secretary of Labor), is an adult handicapped individual whose own income meets the requirements of clause (A) or (B), but who is a member of a family whose income does not meet such requirements."

For purposes of the corporation business tax credits, the "qualified business" must be a corporation.

"Enterprise zone" or "zone" means an urban enterprise zone designated by the Urban Enterprise Zone Authority under N.J.S.A. 52:27H-60 et seq.

"Qualifying municipality" means any municipality in which there was, in the last full calendar year immediately preceding the year in which the municipality makes application for enterprise zone designation, an annual average of at least 2,000 unemployed persons, and in which the municipal average annual unemployment rate for that year exceeded the state average annual unemployment rate; except that any municipality that qualifies for state aid pursuant to P.L. 1978, c. 14 (N.J.S.A. 52:27D-178 et seq.) shall qualify if its municipal average unemployment rate for that year exceeded the state average annual unemployment rate. The annual average of unemployed persons and the average annual unemployment rates shall be estimated for the relevant calendar year by the Office of Labor Statistics, Division of Planning and Research of the State Department of Labor. For purposes of P.L. 1983, c. 303 (N.J.S.A. 52:27H-60 et seq.), the seven municipalities in which the six enterprise zones are to be designated pursuant to criteria according priority consideration for designation of these zones pursuant to section 7 of P.L. 1983, c. 303 (N.J.S.A. 52:27H-66) shall be deemed qualifying municipalities.

Amended by R.1994 d.419, effective August 15, 1994.

See: 26 N.J.R. 2203(a), 26 N.J.R. 3462(a).

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

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

In "qualified business", deleted the last sentence in the last paragraph of 2iii.

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.

Recodified from N.J.A.C. 18:7-15.2 and amended by R.2007 d.203, effective July 2, 2007.

See: 39 N.J.R. 848(a), 39 N.J.R. 2540(b).

In 2iii of the definition "qualified business", substituted "U.S.C. §§" for "United States Code"; in definition "Enterprise zone", deleted the comma preceding "et seq."; and in definition "Qualifying municipality", substituted "c. 14 (N.J.S.A. 52-27D-178 et seq.)" for "c.14 (C. 52-27D-178, et seq.)" and "c. 303" for "c.303" two times.

18:7-3A.3 (Reserved)

Amended by R.1994 d.186, effective April 18, 1994.

See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Repealed by R.1994 d.419, effective August 15, 1994.

See: 26 N.J.R. 2203(a), 26 N.J.R. 3462(a).