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**RULE PROPOSALS**

**COMMUNITY AFFAIRS  
DIVISION OF HOUSING AND COMMUNITY RESOURCES**

46 N.J.R. 835(a)

**Proposed Amendment: N.J.A.C. 5:47-2.2**

[Click here to view Interested Persons Statement](#)

**Neighborhood Revitalization State Tax Credit**

**Eligibility of Business Entities for Tax Credit**

**Tax Credit Allowable**

Authorized By: Richard E. Constable, III, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-498 and P.L. 2013, c. 61.

Calendar: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2014-076.

Submit written comments by July 18, 2014, to:

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The agency proposal follows:

### **Summary**

The proposed amendments to N.J.A.C. 5:47-2.2 pertain to the Neighborhood Revitalization State Tax Credit ("NRTC Program" or "Program") and would update the Program rules to incorporate language from P.L. 2013, c. 61. This law extends the Program's tax credits to business income that is subject to the New Jersey Gross Income Tax. Prior to this law, the New Jersey Gross Income Tax was specifically excluded from eligibility for the Program's tax credits. Also included is a clause that the tax credits may only be applied to the specific business entity that would assist a qualified project, and then only against portion of the entity's gross income tax liability that is business-related. At N.J.A.C. 5:47-2.2(d), a technical correction is made, replacing the word "corporate" with "corporation" with respect to the corporation business tax. Finally, at N.J.A.C. 5:47-2.2(g), language is added to describe an "approved project" that a business entity can identify when applying for tax credits.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The proposed amendments will enable additional business entities to participate with the NRTC Program, which is designed to foster the revitalization of distressed neighborhoods through funding for activities such as housing, economic development, supportive services, physical improvements, and community outreach.

### **Economic Impact**

The proposed amendments would not change the impact of the original subchapter and would not result in any additional costs, or any savings, to manufacturers, consumers, or government. The amendments would allow an additional source of income to be offset and thus will likely prompt additional categories of businesses to participate in the Program. The amendments will not, however, increase the overall amount of tax credits.

### **Federal Standards Statement**

No Federal standards analysis is required because the amendments are not proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

### **Jobs Impact**

The Department anticipates that the proposed amendments may result in the creation of additional jobs as it would allow additional business entities to participate in the NRTC's goals of fostering the revitalization of distressed neighborhood through funding for activities such as economic development and physical improvements.

### **Agriculture Industry Impact**

The Department does not anticipate that the proposed amendments would impact the agriculture industry.

### **Regulatory Flexibility Analysis**

The proposed amendments require that participating business entities, including those that qualify as "small businesses," under the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., submit an application form to

the Department. This is a simple document that should not require the services of a professional in order to complete. Once the Certificate of Tax Credit is issued to the business entity by the Department, there would be no further requirements under the amendments for compliance, reporting, or recordkeeping.

### **Housing Affordability Impact Analysis**

Inasmuch as the proposed amendments only concern changes to the rules concerning the tax credit allowable, there is an extreme unlikelihood that the proposed amendments would have any effect upon housing production costs or affect affordability

### **Smart Growth Development Impact Analysis**

Inasmuch as the proposed amendments only concern changes to rules concerning which types of income can be offset by tax credits but does not increase the overall amount of tax credits, there is an extreme unlikelihood that the proposed amendments would evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

[page=836] **Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### SUBCHAPTER 2. ELIGIBILITY OF BUSINESS ENTITIES FOR TAX CREDIT

##### 5:47-2.2 Tax credit allowable

(a) (No change.)

(b) The credit may be applied by the business entity receiving the certificate as credit against tax imposed on business related income, [other than tax imposed under the New Jersey Gross Income Tax,] including, but not limited to, business income subject to the provisions of the Corporation Business Tax Act (1945), P.L. 1945, [c.162] **c. 162** (N.J.S.A. 54:10A-1 et seq.), **the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq.**, the Savings Institution Tax Act, P.L. 1973, [c.31] **c. 31** (N.J.S.A. 54:10D-1 et seq.), the tax imposed on marine insurance companies pursuant to N.J.S.A. 54:16-1 et seq., the tax imposed on insurers generally, pursuant to P.L. 1945, [c.132] **c. 132** (N.J.S.A. 54:18A-1 et seq.), the sewer and water utility excise tax imposed pursuant to section 6 of P.L. 1940, [c.5] **c. 5** (N.J.S.A. 54:30A-54) and the petroleum products gross receipts tax imposed pursuant to section 3 of P.L. 1990, [c.42] **c. 42** (N.J.S.A. 54:15B-3).

**1. For a taxpayer applying credit to liability due pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., the credit allowed pursuant to this section shall only be applied to the amount of gross income tax liability for the taxable year that, as a percentage of gross income tax liability, is equal to the percentage of the taxpayer's gross income that is attributable to the taxpayer's business entity through which the taxpayer provided the funding for the qualified project. For purposes of determining the amount of gross income tax liability to which a credit allowed pursuant to this section may be applied, gross income shall be calculated without the application of exclusions or deductions.**

(c) (No change.)

(d) Credit shall not be allowed for activities for which the business entity is receiving credit under any other provision against any tax on business related income [other than the New Jersey Gross Income Tax,] including, but not limited to, the [corporate] **corporation business tax, New Jersey Gross Income Tax**, corporate income tax, insurance premiums tax, petroleum products gross receipts tax, public utilities franchise tax, public utilities gross receipts tax, public utility

excise tax, railroad franchise tax, and the saving institution tax.

(e) The tax credit shall be awarded only for assistance provided within the same tax year as that in which the Commissioner issued the certificate, or if the Commissioner approved assistance for more than one year, within each following tax year **in which payment was made** as set forth in the schedule that shall be attached to the certificate issued by the Commissioner. This provision may be waived for good cause shown.

(f) (No change.)

(g) The Department will grant priority in awarding tax credits to business entities that identify a nonprofit organization partner **that has an approved project** in its application **for tax credits, followed by the remaining prioritizations listed in and** pursuant to P.L. 2001, [c.415] **c. 415** (N.J.S.A. 52:27D-496). **An approved project will consist of a project application submitted by a nonprofit organization to the Department, as part of an application cycle, which is reviewed and determined to be qualified for funding. The Department will publicize on the Department's website, a list of approved projects for business entities to consider when applying for tax credits.**

(h) (No change.)