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## NJ Tax Break for Small Businesses

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Matthew Meltzer and Alan Zuckerman

**On March 20, 2025, New Jersey lawmakers advanced a measure that would bring the New Jersey Gross Income Tax into closer conformity with federal law regarding the income tax treatment of qualified small business stock, or QSBS.** Specifically, Bill No. 4455, which passed unanimously out of the Assembly State and Local Government Committee, would allow payors of the Gross Income Tax to claim a deduction for the capital gains realized from the sale or exchange of QSBS if certain requirements are met. The proposal parallels Section 1202 of the Internal Revenue Code, which allows taxpayers to exclude from income up to \$10,000,000 (or 10 times their adjusted basis in the stock) of gain from the sale of QSBS.

The New Jersey proposal adopts several aspects of the federal requirements, such as that the stock must be held by the seller for more than 5 years, must have been acquired in an original issuance from a C corporation, and must be engaged in the active conduct of a qualified small business (i.e., a business that meets a gross assets test and is not engaged in certain prohibited trades or businesses). However, unlike Section 1202 of the Internal Revenue Code, the New Jersey proposal is a deduction, not an outright exclusion from income. This means that a taxpayer with gain from the sale of QSBS will still take the amount into income for New Jersey purposes, which may limit the taxpayers ability to claim other state tax benefits.

**In addition, a taxpayers ability to claim the deduction in full depends on the qualified small business total New Jersey payroll:**

1. if the percentage of the businesss payroll attributable to in-state employees is at least 80 percent, the maximum allowable deduction is the greater of \$10 million or 10 times the aggregate adjusted basis of the stock, and
2. if the percentage of the businesss payroll attributable to in-state employees is less than 80 percent, the maximum allowable deduction would be the greater of \$8 million or 8 times the aggregate adjusted basis of the stock.

We are monitoring this development, which will be significant for owners of New Jersey businesses that meet the new qualified small business requirements. If the bill becomes law, it may be possible for existing businesses to do an internal restructuring to position themselves to take advantage of a QSBS deduction in an exit transaction.

**If you have any questions about this alert, please contact your attorney at Flaster Greenberg, or any attorney in the Business & Corporate Department or Tax Department.**

### **ATTORNEYS MENTIONED**

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