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STATE OF NEW JERSEY

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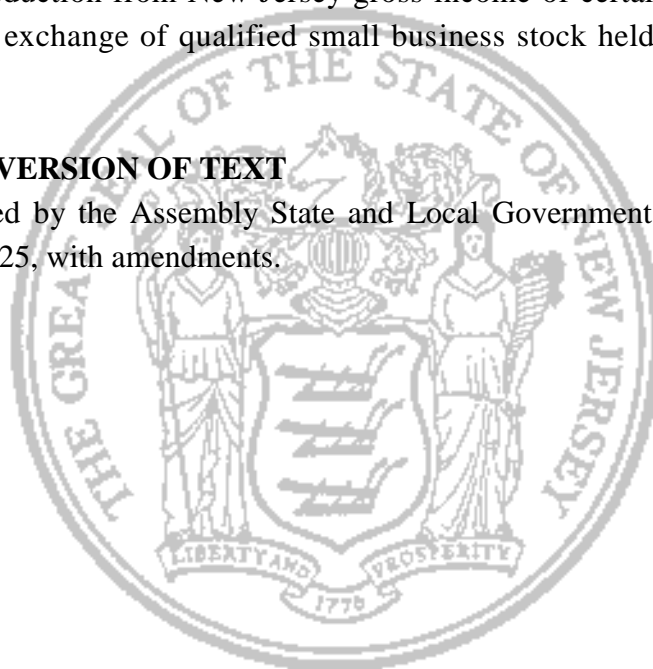
**Assemblymen Miller, Hutchison, Egan, Assemblywoman Park,
Assemblyman Atkins, Assemblywoman Drulis, Assemblymen Spearman
and Calabrese**

SYNOPSIS

Allows deduction from New Jersey gross income of certain capital gains from sale or exchange of qualified small business stock held for more than five years.

CURRENT VERSION OF TEXT

As reported by the Assembly State and Local Government Committee on March 20, 2025, with amendments.



(Sponsorship Updated As Of: 5/5/2025)

1 AN ACT allowing a deduction from New Jersey gross income of
 2 certain capital gains from sale or exchange of ²[New Jersey]²
 3 qualified small business stock held for more than five years,
 4 supplementing Title 54A of the New Jersey Statutes.

5
 6 **BE IT ENACTED** by the Senate and General Assembly of the State
 7 of New Jersey:

8
 9 1. a. Notwithstanding the provisions of N.J.S.54A:5-1, a
 10 taxpayer who is an individual shall be allowed to deduct from the
 11 taxpayer's gross income ¹[in a] , for any¹ taxable year ¹beginning
 12 on or after the effective date of P.L. , c. (C.) (pending
 13 before the Legislature as this bill),¹ the eligible gain from the sale
 14 or exchange of ²[New Jersey]² qualified small business stock held
 15 for more than five years ¹, in accordance with the maximum
 16 allowable deductions established pursuant to ²[the schedule in]²
 17 subsection b. of this section¹.

18 b. (1) If the taxpayer has eligible gain for the taxable year from
 19 one or more dispositions of ¹qualified small business¹ stock
 20 ¹[issued by any corporation]¹, the aggregate amount of the gain
 21 from dispositions of stock issued by the corporation which may be
 22 taken into account ¹[under subsection a.]¹ for the taxable year shall
 23 ²[not exceed the greater of either of the following] be determined
 24 as follows:² ¹[:

25 (a) Ten million dollars (\$10,000,000)] ²[dollar amounts or
 26 aggregate adjusted basis amounts identified in the following
 27 schedule, which amounts are applicable to the percentage of the
 28 corporation's payroll, as measured by total dollar value, attributable
 29 to employment located within this State. The applicable dollar
 30 amount shall be¹ reduced by the aggregate amount of eligible gain
 31 taken into account by the taxpayer under subsection a. for prior
 32 taxable years and attributable to dispositions of stock issued by the
 33 corporation. ¹The applicable]

34 (a) If at least 80 percent of the corporation's payroll, as measured
 35 by total dollar value, is attributable to employment located within
 36 this State, the taxpayer shall be entitled to a maximum allowable
 37 deduction not to exceed the greater of:

38 (i) \$10,000,000; or

39 (ii) 10 times the² aggregate adjusted ¹[bases] basis¹ of qualified
 40 small business stock ²[¹shall be a multiple of the aggregate adjusted
 41 basis of qualified small business stock¹]² issued by the corporation
 42 and disposed of by the taxpayer during the taxable year ¹[. For

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACE committee amendments adopted March 6, 2025.

²Assembly ASL committee amendments adopted March 20, 2025.

1 purposes of this subparagraph (b), the adjusted basis of any stock
 2 shall be determined] ² ¹ without regard to any addition to basis
 3 after the date on which the stock was originally issued.

4

| <u>¹Percentage payroll attributable to employment within State:</u> | <u>Dollar Amount:</u> | <u>Aggregate Adjusted Basis Amount:</u> |
|--|---------------------------|---|
| <u>100%</u> | <u>\$10,000,000</u> | <u>10 times</u> |
| <u>At least 90% but less than 100%</u> | <u>\$9,000,000</u> | <u>9 times</u> |
| <u>At least 80% but less than 90%</u> | <u>\$8,000,000</u> | <u>8 times</u> |
| <u>At least 70% but less than 80%</u> | <u>\$7,000,000</u> | <u>7 times</u> |
| <u>At least 60% but less than 70%</u> | <u>\$6,000,000</u> | <u>6 times</u> |
| <u>At least 50% but less than 60%</u> | <u>\$5,000,000</u> | <u>5 times</u> |
| <u>At least 40% but less than 50%</u> | <u>\$4,000,000</u> | <u>4 times</u> |
| <u>At least 30% but less than 40%</u> | <u>\$3,000,000</u> | <u>3 times</u> |
| <u>At least 20% but less than 30%</u> | <u>\$2,000,000</u> | <u>2 times</u> |
| <u>At least 10% but less than 20%</u> | <u>\$1,000,000</u> | <u>1 time</u> |
| <u>Less than 10%</u> | <u>\$0</u> | <u>0¹ ; or</u> |

5

6 (b) If less than 80 percent of the corporation's payroll, as
 7 measured by total dollar value, is attributable to employment
 8 located within this State, the taxpayer shall be entitled to a
 9 maximum allowable deduction not to exceed the greater of:

10 (i) \$8,000,000; or

11 (ii) eight times the aggregate adjusted basis of qualified small
 12 business stock issued by the corporation and disposed of by the
 13 taxpayer in the taxable year.

14 (c) Notwithstanding any provision of this paragraph to the
 15 contrary, the maximum allowable deduction amounts set forth in
 16 subparagraphs (a) and (b) of this paragraph shall be reduced by the
 17 aggregate amount of eligible gain taken into account by the
 18 taxpayer under this section for any prior taxable year attributable to
 19 dispositions of stock issued by the corporation. The applicable
 20 aggregate adjusted basis of qualified small business stock shall be
 21 determined without regard to any addition to basis after the date on
 22 which the stock was originally issued.²

1 (2) For purposes of this subsection ¹**["b.]"**, the term “eligible
2 gain” means any gain from the sale or exchange of qualified small
3 business stock held for more than five years.

4 (3) (a) In the case of a married individual filing a separate
5 return, ¹**["subparagraph (a) of paragraph (1) of"]** the maximum
6 deduction allowed pursuant to¹ this subsection shall be ¹**["five**
7 **million dollars (\$5,000,000)"]** the greater of: 50 percent of the
8 dollar value allowed; or 50 percent of the aggregate adjusted basis
9 allowed, pursuant to this subsection¹.

10 (b) In the case of a married taxpayer filing a joint return, the
11 amount of gain taken into account under ¹**["subsection a."]** this
12 subsection¹ shall be allocated equally between the spouses for
13 purposes of applying this subsection to subsequent taxable years.

14 c. As used in this section:

15 (1) “Qualified small business stock” means any stock in a C
16 corporation which is originally issued ¹**["on or"]** after ¹**["the effective**
17 **date of P.L. , c. (C.) (pending before the Legislature as this**
18 **bill)"]** January 1, 2015¹, if both of the following apply:

19 (a) As of the date of issuance, the corporation is a qualified
20 small business.

21 (b) Except as provided in subsections e. and g., the stock is
22 acquired by the taxpayer at its original issue ¹**["()"]** directly or
23 through an underwriter ¹**["()"]** in either of the following manners:

24 (i) ¹**["In"]** in¹ exchange for money or other property ¹**["()"]** not
25 including stock ¹**["()"]** ; or¹

26 (ii) ¹**["As"]** as¹ compensation for services provided to the
27 corporation ¹**["()"]** other than services performed as an underwriter
28 of the stock ¹**["()"]**.

29 (2) (a) Stock in a corporation shall not be treated as qualified
30 small business stock unless, during substantially all of the
31 taxpayer’s holding period for the stock, the corporation meets the
32 active business requirements of subsection d. of this section and the
33 corporation is a C corporation.

34 (b) (i) Notwithstanding subsection d. of this section, a
35 corporation shall be treated as meeting the active business
36 requirements of subsection d. ¹**["of this section"]** for any period during
37 which the corporation qualifies as a specialized small business
38 investment company.

39 (ii) For purposes of ¹**["subsubparagraph"]** sub-subparagraph¹ (i)
40 of this subparagraph, the term “specialized small business
41 investment company” means any eligible corporation ¹**["(as defined**
42 **in"]** , pursuant to¹ paragraph (4) of subsection d. of this
43 section ¹**["()"]** that is licensed to operate under Section 301(d) of the
44 federal Small Business Investment Act of 1958 ¹**["()"]** as in effect
45 on May 13, 1993 ¹**["()"]**.

1 (3) (a) Stock acquired by the taxpayer shall not be treated as
2 qualified small business stock if, at any time during the four-year
3 period beginning on the date two years before the issuance of the
4 stock, the corporation issuing the stock purchased ¹[(] ¹ directly or
5 indirectly ¹[(] ¹ any of its stock from the taxpayer or from a
6 related person to the taxpayer. For the purposes of this
7 subparagraph, "related person" means a corporation, partnership,
8 association ¹ ¹ or trust controlled by the taxpayer; an individual,
9 corporation, partnership, association ¹ ¹ or trust that is in the control
10 of the taxpayer; a corporation, partnership, association ¹ ¹ or trust
11 controlled by an individual, corporation, partnership, association or
12 trust that is in the control of the taxpayer; or a member of the same
13 controlled group as the taxpayer.

14 (b) Stock issued by a corporation shall not be treated as
15 qualified small business stock if, during the two-year period
16 beginning on the date one year before the issuance of the stock, the
17 corporation made one or more purchases of its stock with an
18 aggregate value ¹[(] ¹ as of the time of the respective purchases
19 ¹[(] ¹ exceeding five percent of the aggregate value of all of its
20 stock as of the beginning of the two-year period.

21 (c) If any transaction is treated under section 304(a) of the
22 Internal Revenue Code (26 U.S.C. s.304(a)) as a distribution in
23 redemption of the stock of any corporation, for purposes of
24 subparagraphs (a) and (b) ¹of this paragraph¹, the corporation shall
25 be treated as purchasing an amount of its stock equal to the amount
26 treated as a distribution in redemption of the stock of the
27 corporation under section 304(a) of the Internal Revenue Code (26
28 U.S.C. s.304(a)).

29 (4) "Qualified small business" means any domestic corporation
30 ¹[(] ¹ as defined in section 7701(a)(4) of the Internal Revenue
31 Code (26 U.S.C. s.7701(a)(4)) ¹[(] ¹ which is a C corporation, if
32 all of the following apply:

33 (a) The aggregate gross assets of the corporation ¹[(] ¹ or any
34 predecessor thereof ¹[(] ¹ at all times on or after the effective date
35 of P.L. , c. (C.) (pending before the Legislature as this bill),
36 and before the issuance did not exceed \$50,000,000;

37 (b) The aggregate gross assets of the corporation immediately
38 after the issuance ¹[(] ¹ determined by taking into account
39 amounts received in the issuance ¹[(] ¹ do not exceed
40 \$50,000,000, where "aggregate gross assets" mean the amount of
41 cash and the aggregate adjusted basis of other property held by the
42 corporation, but the adjusted basis of any property contributed to
43 the corporation ¹[(] ¹ or other property with a basis determined in
44 whole or in part by reference to the adjusted basis of property so
45 contributed ¹[(] ¹ shall be determined as if the basis of the
46 property contributed to the corporation immediately after the

1 contribution was equal to its fair market value as of the time of the
2 contribution; and

3 (c) ¹~~Has~~ The corporation has¹ fewer than 225 employees
4 ²~~and at least ¹80~~ 10¹ percent of the corporation's payroll, as
5 measured by total dollar value, is attributable to employment
6 located within this State².

7 ¹~~Provided, however, that~~ (d) For the purposes of this
8 subsection,¹ all corporations which are members of the same parent-
9 subsidiary controlled group shall be treated as one corporation for
10 purposes of this subsection, where "parent-subsidary controlled
11 group" means any controlled group of corporations as defined in
12 section 1563(a)(1) of the Internal Revenue Code (26 U.S.C.
13 s.1563(a)(1)), except that ¹~~that~~¹ percentages of ownership and
14 value that control shall exist in situations involving at least 50
15 percent of ownership and value as otherwise provided involving at
16 least 80 percent required by section 1563(a)(1) (26 U.S.C.
17 s.1563(a)(1)), and section 1563(a)(4) of the Internal Revenue Code
18 (26 U.S.C. s.1563(a)(4)) shall not apply.

19 d. (1) The active business requirements of ¹~~paragraph (2) of~~
20 this¹ subsection ¹~~c.~~¹ shall be met by a corporation for any period
21 if during that period:

22 (a) ¹~~At~~ at¹ least 80 percent ¹~~(by value)~~¹ of the assets of the
23 corporation ¹~~, by value,~~¹ are used by the corporation in the active
24 conduct of one or more qualified trades or businesses; and

25 (b) ¹~~The~~ the¹ corporation is a domestic corporation, but
26 ¹~~shall~~¹ not ¹~~include~~ including¹ any of the following: (i) a
27 domestic international sales corporation (DISC) or former DISC;
28 (ii) ¹~~A corporation with respect to which an election under section~~
29 936 of the Internal Revenue Code (26 U.S.C. s.936) is in effect or
30 which has a direct or indirect subsidiary with respect to which the
31 election is in effect; (iii) ~~A~~ a¹ regulated investment company, real
32 estate investment trust (REIT), or real estate mortgage investment
33 conduit (REMIC); or ¹~~(iv) A~~ (iii) a¹ cooperative.

34 (2) ¹~~For purposes of this paragraph (2), if,~~ Assets used in the
35 following activities of a corporation¹ in connection with any future
36 qualified trade or business, ¹~~a corporation is engaged in~~ shall be
37 treated as used in the active conduct of a qualified trade or business,
38 whether or not a corporation has any gross income from those
39 activities at the time of a determination pursuant to this paragraph,
40 including¹ :

41 (a) ¹~~Startup~~ startup¹ activities described in section
42 195(c)(1)(A) of the Internal Revenue Code (26 U.S.C.
43 s.195(c)(1)(A)) ¹~~,~~¹

44 (b) ¹~~Activities~~ activities¹ resulting in the payment or
45 incurring of expenditures which may be treated as research and

1 experimental expenditures under section 174 of the Internal
2 Revenue Code (26 U.S.C. s.174) ¹[.] ¹ or

3 (c) Activities with respect to in-house research expenses
4 described in section 41(b)(4) of the Internal Revenue Code (26
5 U.S.C. s.41(b)(4)) ¹[], then assets used in those activities shall be
6 treated as used in the active conduct of a qualified trade or business.
7 Any determination under this paragraph (1) shall be made without
8 regard to whether a corporation has any gross income from those
9 activities at the time of the determination ¹].

10 (3) For purposes of this subsection ¹[d.] ¹, “qualified trade or
11 business” means any trade or business other than any of the
12 following:

13 (a) ¹[Any] any ¹ trade or business involving the performance of
14 services in the fields of health, law, engineering, architecture,
15 accounting, actuarial science, performing arts, consulting, athletics,
16 financial services, brokerage services, or any trade or business
17 where the principal asset of the trade or business is the reputation or
18 skill of one or more of its employees ¹[.] ¹

19 (b) ¹[Any] any ¹ banking, insurance, financing, leasing,
20 investing, or similar business ¹[.] ¹

21 (c) ¹[Any] any ¹ farming business ¹[()] ¹ including the business
22 of raising or harvesting trees ¹[.] ¹

23 (d) ¹[Any] any ¹ business involving the production or extraction
24 of products of a character with respect to which a deduction is
25 allowable under section 613 or 613A of the Internal Revenue Code
26 (26 U.S.C. s.613 or s.613A) ¹[.] ¹ ; or ¹

27 (e) ¹[Any] any ¹ business of operating a hotel, motel, restaurant,
28 or similar business.

29 (4) (a) For purposes of this subsection ¹[d.] ¹, stock and debt in
30 any subsidiary corporation shall be disregarded and the parent
31 corporation shall be deemed to own its ratable share of the
32 subsidiary’s assets, and to conduct its ratable share of the
33 subsidiary’s activities.

34 (b) A corporation shall be treated as failing to meet the
35 requirements of paragraph (1) of this subsection ¹[d.] ¹ for any
36 period during which more than 10 percent of the value of its assets
37 ¹[()] ¹ in excess of liabilities ¹[()] ¹ consists of stock or securities in
38 other corporations which are not subsidiaries of the corporation
39 ¹[()] ¹ other than assets described in paragraph (5) of this
40 subsection ¹[()] ¹.

41 (c) For purposes of this paragraph ¹[(4)] ¹, a corporation shall
42 be considered a subsidiary if the parent owns more than 50 percent
43 of the combined voting power of all classes of stock entitled to
44 vote, or more than 50 percent in value of all outstanding stock, of
45 the corporation.

1 (5) ¹(a)¹ For purposes of subparagraph (a) of paragraph (1) of
2 this subsection ¹[d.]¹, the following assets shall be treated as used
3 in the active conduct of a qualified trade or business:

4 ¹[(a) Assets] (i) assets¹ that are held as a part of the reasonably
5 required working capital needs of a qualified trade or business of
6 the corporation ¹[.] ; and¹

7 ¹[(b) Assets] (ii) assets¹ that are held for investment and are
8 reasonably expected to be used within two years to finance research
9 and experimentation in a qualified trade or business or increases in
10 working capital needs of a qualified trade or business.

11 ¹(b)¹ For periods after the corporation has been in existence for
12 at least two years, in no event may more than 50 percent of the
13 assets of the corporation qualify as used in the active conduct of a
14 qualified trade or business by reason of this paragraph.

15 (6) A corporation shall not be treated as meeting the
16 requirements of paragraph (1) of this subsection ¹[d.]¹ for any
17 period during which more than 10 percent of the total value of its
18 assets consists of real property that is not used in the active conduct
19 of a qualified trade or business. For purposes of ¹[the preceding
20 sentence] this paragraph¹ the ownership of, dealing in, or renting
21 of, real property shall not be treated as the active conduct of a
22 qualified trade or business.

23 (7) For purposes of paragraph (1) of this subsection, rights to
24 computer software that produces active business computer software
25 royalties ¹[()]¹ within the meaning of section 543(d)(1) of the
26 Internal Revenue Code (26 U.S.C. s.543(d)(1)) ¹[]¹ shall be
27 treated as an asset used in the active conduct of a trade or business.

28 e. If any stock in a corporation is acquired solely through the
29 conversion of other stock in the corporation that is qualified small
30 business stock in the hands of the taxpayer, the stock so acquired
31 shall be treated as qualified small business stock in the hands of the
32 taxpayer and the stock so acquired shall be treated as having been
33 held during the period during which the converted stock was held.

34 f. (1) If any amount included in gross income by reason of
35 holding an interest in a pass-through entity meets the requirements
36 of paragraph (2) of this subsection ¹[f.]¹, the following shall apply:

37 (a) ¹[The] the¹ amount shall be treated as gain described in
38 subsection a. of this section; and

39 (b) ¹[For] for¹ purposes of applying subsection b. of this
40 section, the amount shall be treated as gain from a disposition of
41 stock in the corporation issuing the stock disposed of by the pass-
42 through entity and the taxpayer's proportionate share of the
43 adjusted basis of the pass-through entity in the stock shall be taken
44 into account.

45 (2) An amount shall meet the requirements of paragraph (1) of
46 this subsection ¹[f.]¹ if:

1 (a) **1** **["The"]** the¹ amount is attributable to gain on the sale or
2 exchange by the pass-through entity of stock that is qualified small
3 business stock in the hands of the entity **1** **["("]** is¹ determined by
4 treating the entity as an individual **1** **[""]** is¹ and that was held by that
5 entity for more than five years; and

6 (b) **1** **["The"]** the¹ amount is includable in the gross income of the
7 taxpayer by reason of the holding of an interest in the entity that
8 was held by the taxpayer on the date on which the pass-through
9 entity acquired the stock and at all times thereafter before the
10 disposition of the stock by the pass-through entity.

11 **1** **["Provided however, that"]** (3) Notwithstanding any provision of
12 law to the contrary,¹ paragraph (1) of this subsection **1** **["f."]**¹ shall
13 not apply to any amount to the extent the amount exceeds the
14 amount to which that paragraph **1** **["(1)"]**¹ would have applied if the
15 amount was determined by reference to the interest the taxpayer
16 held in the pass-through entity on the date the qualified small
17 business stock was acquired. **1** **["Provided further, that"]**

18 (4) For purposes of this subsection,¹ "pass-through entity"
19 means any of the following: a partnership; an S corporation; a
20 regulated investment company; or a common trust fund.

21 g. For purposes of this section:

22 (1) In the case of a transfer described in paragraph (2) of this
23 subsection, the transferee shall be treated as **1** **["meeting"]** having¹
24 both: **1** **["having"]**¹ acquired the stock in the same manner as the
25 transferor; and **1** **["having"]**¹ held the stock during any continuous
26 period immediately preceding the transfer during which it was held
27 **1** **["("]** is¹ or treated as held **1** **["under this subdivision)"]** is¹ by the
28 transferor.

29 (2) A transfer **1** **["is"]** is¹, as¹ described in this subsection **1** **["if the"]** is¹,
30 shall include any¹ transfer **1** **["is any of the following"]** made¹:

31 (a) **1** **["By"]** by¹ gift **1** **["."]** is¹

32 (b) **1** **["At"]** at¹ death **1** **["."]** is¹; or¹

33 (c) **1** **["From"]** from¹ a partnership to a partner of stock with
34 respect to which requirements similar to the requirements of
35 subsection f. of this section are met at the time of the transfer **1** **["("]** is¹
36 without regard to the five-year holding period requirement **1** **[""]**¹.

37 (3) Rules similar to the rules of section 1244(d)(2) of the
38 Internal Revenue Code (26 U.S.C. s.1244(d)(2)) shall apply for
39 purposes of this section.

40 (4) (a) In the case of a transaction described in section 351 of
41 the Internal Revenue Code (26 U.S.C. s.351) or a reorganization
42 described in section 368 of the Internal Revenue Code (26 U.S.C.
43 s.368), if qualified small business stock is exchanged for other stock
44 that would not qualify as qualified small business stock but for this
45 paragraph **1** **["(4)"]**¹, the other stock shall be treated as qualified small

1 business stock acquired on the date on which the exchanged stock
2 was acquired.

3 (b) This subsection ¹~~[(e)]~~¹ shall apply to gain from the sale or
4 exchange of stock treated as qualified small business stock by
5 reason of subparagraph (a) of this paragraph only to the extent of
6 the gain that would have been recognized at the time of the transfer
7 described in subparagraph (a) of this paragraph if section 351 or
8 368 of the Internal Revenue Code (26 U.S.C. s.351 or s.368) had
9 not applied at that time. The preceding sentence shall not apply if
10 the stock that is treated as qualified small business stock by reason
11 of subparagraph (a) of this paragraph is issued by a corporation that
12 ¹~~[(1)]~~¹ as of the time of the transfer described in that subparagraph
13 (a) ¹~~[(1)]~~¹ is a qualified small business.

14 (c) For purposes of this paragraph ¹~~[(4)]~~¹, stock treated as
15 qualified small business stock under subparagraph (a) ¹of this
16 paragraph¹ shall be so treated for subsequent transactions or
17 reorganizations, except that the limitation of subparagraph (b) ¹of
18 this paragraph¹ shall be applied as of the time of the first transfer to
19 which the limitation applied ¹~~[(1)]~~¹ determined after the application
20 of the second sentence of subparagraph (b) ¹~~[(1)]~~¹ of this paragraph¹.

21 (d) In the case of a transaction described in section 351 of the
22 Internal Revenue Code (26 U.S.C. s.351), this paragraph shall apply
23 only if immediately after the transaction the corporation issuing the
24 stock owns directly or indirectly stock representing control ¹~~[(1)]~~¹
25 within the meaning of section 368(c) of the Internal Revenue Code
26 (26 U.S.C. s.368(c)) ¹~~[(1)]~~¹ of the corporation whose stock was
27 exchanged.

28 h. For purposes of this section:

29 (1) In the case in which the taxpayer transfers property ¹~~[(1)]~~¹
30 other than money or stock ¹~~[(1)]~~¹ to a corporation in exchange for
31 stock in the corporation, the stock shall be treated as having been
32 acquired by the taxpayer on the date of the exchange and the basis
33 of the stock in the hands of the taxpayer shall in no event be less
34 than the fair market value of the property exchanged.

35 (2) If the adjusted basis of any qualified small business stock is
36 adjusted by reason of any contribution to capital after the date on
37 which the stock was originally issued, in determining the amount of
38 the adjustment by reason of the contribution, the basis of the
39 contributed property shall in no event be treated as less than its fair
40 market value on the date of the contribution.

41 i. (1) If the taxpayer has an offsetting short position with
42 respect to any qualified small business stock, subsection a. ¹of this
43 section¹ shall not apply to any gain from the sale or exchange of the
44 stock unless the stock was held by the taxpayer for more than five
45 years as of the first day on which there was such a short position

1 and the taxpayer elects to recognize gain as if the stock was sold on
2 that first day for its fair market value.

3 (2) For purposes of paragraph (1) of this subsection, the
4 taxpayer shall be treated as having an offsetting short position with
5 respect to any qualified small business stock if any of the following
6 apply:

7 (a) ~~["The"]~~ the¹ taxpayer has made a short sale of substantially
8 identical property ~~["."] ;~~¹

9 (b) ~~["The"]~~ the¹ taxpayer has acquired an option to sell
10 substantially identical property at a fixed price ~~["."] ; or~~¹

11 (c) ~~["To"]~~ to¹ the extent provided in regulations, the taxpayer
12 has entered into any other transaction that substantially reduces the
13 risk of loss from holding the qualified small business stock. For
14 purposes of the preceding sentence, any reference to the taxpayer
15 shall be treated as including a reference to any person who is related
16 ~~["("] ;~~¹ within the meaning of section 267(b) or 707(b) of the
17 Internal Revenue Code (26 U.S.C. s.267(b) or s.707(b)) ~~[""] ;~~¹ to
18 the taxpayer.

19 j. A corporation that issues qualified small business stock
20 agrees to submit reports to the Director of the Division of Taxation
21 in the Department of the Treasury and to its shareholders as the
22 director may require to carry out the purposes of this section.
23

24 2. The Director of the Division of Taxation in the Department
25 of the Treasury shall prescribe regulations pursuant to the provision
26 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
27 1 et seq.) as may be appropriate to carry out the purposes of this act,
28 including any regulations that may conform to those regulations
29 promulgated by the Secretary of the Treasury under section 1202(k)
30 of the Internal Revenue Code (26 U.S.C. s.1202(k)) that shall apply
31 to the extent that those regulations do not conflict with this act, and
32 such further regulation that shall include but be not limited to
33 regulations to prevent the avoidance of the purposes of this act
34 through splitups, shell corporations, partnerships, or otherwise.
35

36 3. This act shall take effect immediately and shall apply to
37 taxable years beginning on or after the date of enactment¹.