CHAPTER 162

AN ACT allowing State payroll deductions for State employee salary reduction agreements for qualified transportation fringe benefits and modifying the Travel Demand Management Program, supplementing Title 52 of the Revised Statutes and amending P.L.1993, c.108 and P.L.1993, c.150 .

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

C.52:14-15.1b Qualified transportation fringe benefits, payroll deductions.

1. Notwithstanding the provisions of any other law to the contrary, the State Treasurer, on behalf of the State, and the governing body of an independent State authority, board, commission, corporation, agency or organization may offer as an employer to an employee the option for a reduction in the employee's salary, through payroll deductions or otherwise, in exchange for the payment by the employer of a qualified transportation fringe benefit, as defined in, and otherwise consistent with the provisions and limits of , section 132 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132. The amount of any reduction in an employee's salary for the purpose of contributing to the payment of the qualified transportation fringe benefit shall continue to be treated as regular compensation for all other purposes, including the calculation of pension contributions and the amount of any retirement allowance, but, to the extent permitted by the federal Internal Revenue Code, shall not be included in the computation of federal taxes withheld from the employee's salary.

2. Section 1 of P.L.1993, c.108 (C.54A:6-23) is amended to read as follows:

C.54A:6-23 Commuter transportation benefits not considered gross income.

1. a. For the purposes of the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., "gross income" shall not include employer provided commuter transportation benefits as defined pursuant to section 3 of P.L.1992, c.32 (C.27:26A-3), up to and including the limit per taxable year per employee pursuant to subsection b. of this section. Should an employee receive commuter transportation benefits in excess of those limits in a taxable year, only the amount in excess of those limits shall be included in gross income. If an employee receives money towards commuter transportation benefits from the employee's employer, as an advance, a reimbursement, or both, the employee shall furnish suitable proof to the employer in the form of receipts, ticket stubs or the like that the employee used the employer provided money for alternative means of commuting as defined pursuant to section 3 of P.L.1992, c.32 (C.27:26A-3).

b. (1) The limit per taxable year per employee shall be $720 for the taxable years beginning on and after January 1, 1993 but before January 1, 1997.

(2) The limit per taxable year per employee shall be $1,000 for the taxable years beginning on and after January 1, 1997 but before January 1, 2002. For taxable years beginning on or after January 1, 1994 but before January 1, 2002, the director shall adjust the limit, rounded down to the nearest $5, in proportion to the change in the average consumer price index for all urban consumers in the New York and Northeastern New Jersey and the Philadelphia areas, as reported by the United States Department of Labor, from calendar year 1993 to the calendar year ending immediately before the taxable year.

(3) The limit per taxable year per employee shall be $1,200 for the taxable years beginning on or after January 1, 2002, provided however that in the case of any taxable year beginning in a calendar year after 2002 the director shall adjust the limit for inflation in parallel with the adjustment pursuant to paragraph (6) of subsection (f) of section 132 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132, so that the taxable year limit pursuant to this paragraph is equal to 12 times the adjusted federal monthly limit pursuant to subparagraph (A) of paragraph (2) of subsection (f) of section 132 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132.

c. The exclusion provided by subsection a. of this section shall not apply to any commuter transportation benefit unless such benefit is provided in addition to and not in lieu of any compensation otherwise payable to the employee.

d. Acceptance of the cash value of qualified parking, pursuant to section 132 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132, on the part of one employee of an employer

in place of qualified parking fringe benefits provided to the other employees of the employer in addition to and not in lieu of compensation, shall not cause the qualified parking fringe to become a taxable benefit for employees who do not accept the cash value.

3. Section 1 of P.L.1993, c.150 (C.27:26A-15) is amended to read as follows:

C.27:26A-15 Tax credit for providing commuter transportation benefits.

1. a. An employer that is a taxpayer subject to the provisions of the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the "Financial Business Tax Law (1946)," P.L.1946, c.174 (C.54:10B-1 et seq.), "The Savings Institution Tax Act," P.L.1973, c.31 (C.54:10D-1 et seq.), the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on fire insurance companies pursuant to R.S.54:17-4 et al., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), or that is a taxpayer in respect of a distributive share of partnership income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., which provides commuter transportation benefits as defined in section 3 of P.L.1992, c.32 (C.27:26A-3) shall be allowed a credit against that tax equal to 5% of the cost of commuter transportation benefits for the accounting or privilege period, beginning on or after January 1, 1994 and ending not later than January 1, 1995 subject to the limitations of subsection b. of this section. For accounting or privilege periods beginning on or after January 1, 1995, but ending not later than December 31, 2007, the credit allowed under this section shall be 10% of the cost of commuter transportation benefits for the relevant accounting or privilege period, as appropriate, subject to the limitations of subsection b. of this section. Notwithstanding the provisions of this section to the contrary, a taxpayer which filed a certified compliance plan with the Department of Transportation required by section 5 of P.L.1992, c.32 (C.27:26A-5) on or before May 31, 1996, shall be allowed a credit against that tax equal to 15% of the cost of commuter transportation benefits for the accounting or privilege periods ending on and after July 31, 1996 but ending not later than June 30, 1997, for the relevant accounting or privilege period, as appropriate, subject to the limitations of subsection b. of this section. In the case of a taxpayer receiving partnership income, an offset against that income subject to the limitations in paragraph (5) of subsection b. of this section shall be considered the credit.

b. (1) The credit granted a taxpayer for an accounting or privilege period shall not exceed the per employee limit multiplied by the number of employees participating in alternative means of commuting at the work location. The per employee limit shall be $36 for the accounting or privilege periods beginning on and after January 1, 1994 but before January 1, 1995, $72 for the accounting or privilege period beginning on or after January 1, 1995 but before January 1, 1997, $100 for accounting or privilege periods beginning on or after January 1, 1997 but before January 1, 2002, and $120 for those periods thereafter. Notwithstanding the provisions of this section to the contrary, the per employee limit for a taxpayer which filed a certified compliance plan with the Department of Transportation required by section 5 of P.L.1992, c.32 (C.27:26A-5) on or before the plan submittal date established by the department and which was filed on or before May 31, 1996, shall be $150 for the accounting or privilege periods ending on or after July 31, 1996 but ending not later than June 30, 1997. For those periods beginning on or after January 1, 1995, the Director of the Division of Taxation, in the Department of the Treasury, shall adjust the limit, rounded down to the nearest dollar, in proportion to the change in the average consumer price index for all urban consumers in the New York and Northeastern New Jersey and the Philadelphia areas, as reported by the United States Department of Labor, from calendar year 1994 to the calendar year ending immediately before the appropriate period.

(2) The taxpayer may only claim a credit for providing commuter transportation benefits if those benefits are provided in addition to and not in lieu of compensation and those benefits are based upon a direct expenditure made after the taxpayer has registered with the Department of Transportation and the taxpayer's employer trip reduction program has been certified for providing commuter transportation benefits by the Department of Transportation as prescribed in section 3 of P.L.1996, c.121 (C.27:26A-4.3). Notwithstanding any provisions of P.L.1996,

c.121 (C.27:26A-4.1 et al.) to the contrary, the tax credit eligibility and reporting requirements found at N.J.A.C.16:50-15 shall remain in effect until such time as the Department of Transportation adopts new regulations pursuant to section 3 of P.L.1996, c.121 (C.27:26A-4.3).

(3) The amount of the credit allowed under this section for an accounting or privilege period shall not exceed 50% of the tax liability which would be otherwise due for any one of the taxes enumerated in subsection a. of this section after first applying the credits, if any, allowed under any other law and shall not reduce the amount of tax liability to less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5), section 3 of P.L.1946, c.174 (C.54:10B-3) or section 3 of P.L.1973, c.31 (C.54:10D-3), as may be applicable.

(4) A taxpayer having liability for more than one of the taxes enumerated in subsection a. of this section for an accounting or privilege period shall allocate the credit amount available for that period to the liabilities for that period in the proportion that each liability bears to the total of the liabilities for that period, and each apportioned amount of credit shall be applied to only one amount of liability.

(5) A partnership shall not be allowed a credit under this section directly. A partnership shall be entitled to reduce total partnership income distributed to the partners and subject to tax under subsection k. of N.J.S.54A:5-1 by the lesser of 71.5 percent of the amount of commuter transportation benefits provided pursuant to law or $515 for each employee receiving such benefits. For accounting and privilege periods beginning on or after January 1, 1995, but ending no later than December 31, 2001, the reduction to partnership income allowed under this section shall be the lesser of 143 percent of the cost of commuter transportation benefits provided or $1,030, and for accounting and privilege periods beginning on or after January 1, 2002 the reduction to partnership income allowed under this section shall be the lesser of 157 percent of the cost of commuter transportation benefits provided or $1,884, for each employee receiving such benefits for the relevant accounting or privilege period, as appropriate, subject to the limitations of subsection b. of this section.

c. Each employee who receives money towards commuter transportation benefits from the employee's employer as an advance, a reimbursement, or both, shall furnish suitable proof to the employer, in the form of receipts, ticket stubs or the like, that the employee utilized monies provided by the employer for an alternative means of commuting, as defined pursuant to section 3 of P.L.1992, c.32 (C.27:26A-3).

d. For the purposes of verifying eligibility for the credit, the Commissioner of Transportation shall certify to the Director of the Division of Taxation a list of those employers which have registered with the department and have a certified voluntary employer trip reduction program. An employer trip reduction program of an employer who is a member of a TMA shall be considered certified by the department. "A member of a TMA" shall be defined in regulations promulgated by the department pursuant to section 3 of P.L.1996, c.121 (C.27:26A-4.3). The list shall be provided to the Director of the Division of Taxation within 90 days of registration.

e. The taxpayer shall file with the department a schedule of the expenditures for which the taxpayer has claimed a credit pursuant to this section on any tax return filed with the Director of the Division of Taxation, in such form and pursuant to such rules as shall be prescribed by the commissioner in consultation with the Director of the Division of Taxation.

4. Section 2 of P.L.1993, c.150 is amended to read as follows:

2. This act shall take effect immediately and be applicable to accounting and privilege periods beginning on and after January 1, 1994.

5. This act shall take effect immediately.

Approved July 17, 2001.