

What Technology Companies Need to Know About the Enhanced NJEDA Technology Business Tax Certificate Transfer Program

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The Technology Business Tax Certificate Transfer Program enables qualified, unprofitable, NJ-based technology or biotechnology companies with fewer than 225 U.S. employees (including parent company and all subsidiaries) to sell a percentage of their net operating losses (NOL) and research and development (R&D) tax credits to unrelated, profitable corporations.

NOLs and R&D tax credits may be sold for at least 80% of their value, up to a maximum lifetime benefit of \$15 million per business. This gives qualifying technology and biotechnology companies, whose primary business involves the provision of a scientific process, product or service, the ability to turn NOLs and R&D tax credits into capital. This capital can then be used for growth and operations, including as working capital or to fund research.

Key Program Details:

- Up to \$60 million is available annually, with \$10 million set aside for

businesses located in Innovation Zones (any unused balance of the \$10 million set aside is reverted to the general program pool).

- Only technology and biotechnology companies whose primary business involves the provision of a scientific process, product or service are eligible.
- An eligible company must own, have filed for, or have a license to use protected, proprietary intellectual property (defined as a patent or a registered copyright).
- An eligible company cannot have had positive net operating income on either of its last two full-year income statements according to GAAP. In addition, an eligible company cannot have a parent company with positive net operating income, or be part of a consolidated group of affiliates for federal income tax purposes with positive net operating income.
- An eligible company must have at least:
 - One full-time employee working in New Jersey if incorporated or formed less than three years ago,
 - Five full-time employees in New Jersey if incorporated or formed between three and five years ago,
 - 10 full-time employees in New Jersey if incorporated or formed five years ago or more.
- An eligible company must have financial statements for the two most recent full years of operation compiled, reviewed or audited by an independent CPA firm and prepared according to U.S. GAAP.

The New Jersey Economic Development Authority (NJEDA) will determine eligibility, and the New Jersey Division of Taxation will determine the value of the tax benefits (NOL and R&D Tax Credits).

Sellers and buyers looking to apply for the current [Business Assistance or an Incentive Clearance Certificate](#) (issued to NJEDA as the agency), or those with questions about the enhanced Transfer Program, should reach out to [Yair Holtzman](#), Partner and Leader of Anchin's R&D Tax Credits Group, or their Anchin Relationship Partner.