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RULE ADOPTIONS

OTHER AGENCIES

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

47 N.J.R. 2186(a)

Adopted Amendments: *N.J.A.C. 19:31-12.3, 12.4, and 12.8*

Authority Assistance Programs

Technology Business Tax Certificate Transfer Program

Proposed: May 18, 2015, at *47 N.J.R. 987(a)*.

Adopted: July 20, 2015, by the New Jersey Economic Development Authority, Melissa Orsen, Chief Executive Officer.

Filed: July 20, 2015, as R.2015 d.135, **without change**.

Authority: *N.J.S.A. 34:1B-1* et seq. and *34:1B-7.42.a* et seq.

Effective Date: August 17, 2015.

Expiration Date: November 9, 2017.

Summary of Public Comment and Agency Response:

No public comments were received.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments are not subject to any Federal requirements or standards.

Full text of the adoption follows:

SUBCHAPTER 12. TECHNOLOGY BUSINESS TAX CERTIFICATE TRANSFER PROGRAM

19:31-12.3 Eligibility

(a) (No change.)

(b) No application shall be approved in which the business:

1. (No change.)

2. Is directly or indirectly at least 50 percent owned or controlled by another corporation that has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements or is part of a consolidated group of affiliated corporations, as filed for Federal income tax purposes, that in aggregate has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its combined financial statements. For purposes of this paragraph, a corporation that directly or indirectly owns or controls at least 50 percent of the applicant and a corporation that is part of a consolidated group of affiliated corporations with the applicant shall be considered to have net operating income only if the corporation must report net operating income in its financial statements; or

3. (No change.)

19:31-12.4 Application to the program

(a)-(b) (No change.)

(c) In addition to the material specified in (b) above, a completed application shall include, but is not limited to:

1.-4. (No change.)

5. A list of all entities and affiliated groups of corporations that directly or indirectly own or control 50 percent or greater of the selling business, the number and location of all employees of any such entity and affiliated group of corporations, and the two most recent full years of financial statements for each such entity and affiliated group of corporations that must report net operating income in its financial statements;

6.-13. (No change.)

(d)-(e) (No change.)

19:31-12.8 Recapture of tax benefits

(a) Unless excepted pursuant to (b) below, if a selling business fails to use the private financial assistance received for the surrender of tax benefits as required by this subchapter or fails to maintain a headquarters or a base of operation in the State during the five years following receipt of the private financial assistance, the seller shall forfeit and remit the face value of the tax credit certificate received for the surrender of tax benefits to the Department of Treasury in accordance with the provisions in subsections (c) and (d) below. The face value of the tax credit certificate is the amount of surrendered tax benefits.

(b)-(d) (No change.)