

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 356 Session of 2011

INTRODUCED BY PEIFER, ADOLPH, BARRAR, CALTAGIRONE, CARROLL,  
D. COSTA, DENLINGER, FLECK, GEIST, GIBBONS, GOODMAN, GRELL,  
HORNAMAN, JOSEPHS, M.K. KELLER, KILLION, MAJOR, MURT,  
OBERLANDER, PICKETT, PYLE, READSHAW, REICHLEY, SAYLOR,  
SCAVELLO, K. SMITH, SONNEY, SWANGER AND WAGNER,  
FEBRUARY 1, 2011

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 1, 2011

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," reenacting and amending provisions relating to  
11 employment incentive payments.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. Section 1702-A of the act of March 4, 1971  
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, added  
16 December 15, 1999 (P.L.926, No.63), is reenacted and amended to  
17 read:

18 Section 1702-A. Definitions.--The following words, terms and  
19 phrases when used in this article shall have the meanings  
20 ascribed to them in this section, except where the context

1 clearly indicates a different meaning:

2 "Department." The Department of Revenue of the Commonwealth.

3 "Eligible individual" means any of the following:

4 (1) A person who at any time within the twelve months  
5 preceding the date of hire received general assistance.

6 (2) A person who at any time within the twelve months  
7 preceding the date of hire received temporary assistance to  
8 needy families.

9 (3) A person who:

10 (i) has a physical or mental disability which, for such  
11 individual, constitutes or results in a substantial handicap to  
12 employment; and

13 (ii) is referred to the employer upon completion of or while  
14 receiving rehabilitative services pursuant to an individualized  
15 written rehabilitation plan under a State plan for vocational  
16 rehabilitation services approved under the Rehabilitation Act of  
17 1973 (Public Law 93-112, 29 U.S.C. § 701 et seq.), or a program  
18 of vocational rehabilitation carried out under Title I of the  
19 Veterans' Rehabilitation and Education Amendments of 1980  
20 (Public Law 96-466, 94 Stat. 2171).

21 (4) A person who at any time within the twelve months  
22 preceding the date of hire received compensation under the act  
23 of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known  
24 as the "Unemployment Compensation Law."

25 "Employment incentive payment" means the employment incentive  
26 payment credit provided by this article.

27 "Pass-through entity" means any of the following:

28 (1) A partnership, limited partnership, limited liability  
29 company, business trust or other unincorporated entity that for  
30 Federal income tax purposes is taxable as a partnership.

(2) A Pennsylvania S corporation.

"Qualified first-year wages" means the qualified wages attributable to service rendered by an eligible individual during the one-year period beginning with the day the eligible individual begins work for the employer.

"Qualified second-year wages" means the qualified wages attributable to service rendered by an eligible individual during the one-year period beginning one year after the eligible individual begins work for the employer.

"Qualified tax liability" means the liability for taxes imposed under Article III, IV, VII, VIII, IX or XV of this act. The term includes the liability for taxes imposed under Article III of this act on the owner or owners of a pass-through entity. The term does not include amounts withheld or required to be withheld from employees under Article III of this act.

"Qualified third-year wages" means the qualified wages attributable to service rendered by an eligible individual during the one-year period beginning two years after the eligible individual begins work for the employer.

"Qualified wages" means wages as that term is defined in section 51A(b)(5) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 51A(b)(5)).

"Taxpayer" means a person or entity subject to tax under Article III, IV, VII, VIII, IX or XV of this act. This term includes a pass-through entity.

Section 2. Sections 1703-A and 1704-A of the act, added December 15, 1999 (P.L.926, No.63), are reenacted to read:

Section 1703-A. Employment Incentive Payments.--(a) A taxpayer who employs an eligible individual shall be entitled to employment incentive payments as provided by this article.

(b) No employment incentive payment shall be provided for:

(1) The employment of a person who displaces any other individual from employment except persons discharged for cause as certified by the Department of Labor and Industry.

(2) The employment of a person closely related, as defined by clauses (1) through (8) of section 152(a) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 152(a) (1) through (8)), to the taxpayer or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50% of the outstanding stock of the taxpayer.

(3) Wages paid to an individual during the time period for which the employer received federally funded or State funded job training payments for that individual.

(c) The employment incentive payment shall be calculated on an annual basis as provided in clauses (1) and (2):

(1) The employment incentive payment shall be the sum of thirty per cent of the first nine thousand dollars (\$9,000) of qualified first-year wages, twenty per cent of the first nine thousand dollars (\$9,000) of qualified second-year wages and ten per cent of the first nine thousand dollars (\$9,000) of qualified third-year wages.

(2) A taxpayer eligible to receive a credit under clause (1) shall be eligible to receive an additional employment incentive payment as provided in this clause if:

(i) the taxpayer provides or pays for day care services for the children of an eligible individual; or

(ii) the taxpayer provides or pays for transportation services that enable an eligible individual to travel to and from work.

The additional employment incentive payments under this clause

1 shall be the expenses incurred by the taxpayer for services  
2 listed in subclauses (i) and (ii), but in no case shall the  
3 additional employment incentive payment for each eligible  
4 individual exceed eight hundred dollars (\$800) during the first  
5 year of employment, six hundred dollars (\$600) during the second  
6 year of employment or four hundred dollars (\$400) during the  
7 third year of employment.

8 (d) The employment incentive payment shall be utilized as a  
9 credit against a qualified tax liability to which the taxpayer  
10 is subject. The employment incentive payment applicable to a  
11 pass-through entity shall be allocated in the same manner as  
12 income is allocated.

13 (e) (1) Except in cases where an eligible individual  
14 voluntarily leaves the employment of the taxpayer, becomes  
15 disabled or is terminated for cause, no taxpayer shall be  
16 entitled to receive an employment incentive payment if the  
17 eligible individual is employed by the taxpayer for less than  
18 one year.

19 (2) If the eligible individual leaves the employment of the  
20 taxpayer voluntarily, becomes disabled or is terminated for  
21 cause in less than one year, the employment incentive payment  
22 shall be reduced by the proportion of the year not worked.

23 (f) The total employment incentive payment credit shall not  
24 exceed ninety per cent of the total taxes paid by the employer  
25 against which the employment incentive payments may be claimed  
26 as a credit.

27 (g) Employment incentive payments unused as a tax credit in  
28 a taxable year may be carried over against a qualified tax  
29 liability in the ten immediately subsequent taxable years.

30 (h) For the purposes of computing a tax liability against

1 which the employment incentive payments may be applied,  
2 deductions from taxable income shall be reduced by the  
3 employment incentive payments.

4 Section 1704-A. Administration and Regulations.--The  
5 department, in cooperation with the Department of Public Welfare  
6 and the Department of Labor and Industry, shall administer the  
7 provisions of this article, promulgate appropriate rules,  
8 regulations and forms for that purpose and make such  
9 determinations as may be required. Determinations made with  
10 respect to the employment incentive payment provided in this  
11 section may be reviewed and appealed in the manner provided by  
12 law for other corporate or personal tax credits.

13 Section 3. Section 1705-A of the act, added December 15,  
14 1999 (P.L.926, No.63), is reenacted and amended to read:

15 Section 1705-A. Limitation on Credits.--The total amount of  
16 employment incentive payments authorized by this article shall  
17 not exceed [twenty-five] seven million dollars [(\$25,000,000)]  
18 (\$7,000,000) in any fiscal year. To insure that credits are not  
19 claimed in excess of this amount, a taxpayer may claim the  
20 incentive payments only upon presentation of an authorizing  
21 certificate. Certificates will be issued to the taxpayer by the  
22 Department of Labor and Industry upon presentation to the  
23 Department of Labor and Industry of evidence of a qualifying  
24 offer of employment. If necessary to avoid certificate issuances  
25 in excess of the maximum authorized amount for any fiscal year,  
26 the department shall advise the Department of Labor and Industry  
27 of the total number of certificates which may be issued in each  
28 calendar quarter.

29 Section 4. Section 1706-A of the act, amended November 19,  
30 2004 (P.L.873, No.116), is reenacted and amended to read:

1       Section 1706-A. Time Limitations and Report.--Employment  
2   incentive payments shall not be available for employees hired  
3   after December 31, [2009, unless reenacted by the General  
4   Assembly] 2013. Not later than July 1, [2004, and December 31,  
5   2008] 2012, the Secretary of Public Welfare and the Secretary of  
6   Labor and Industry shall report to the General Assembly on the  
7   effectiveness of incentive payments to encourage the employment  
8   of general assistance [and], temporary assistance to needy  
9   families and unemployment compensation recipients and recommend  
10   whether the program should be continued. Credits may be claimed  
11   against taxes payable for tax years beginning January 1, 2000,  
12   and thereafter, and may be claimed for employees hired after  
13   December 31, 1999.

14       Section 5. The reenactment and amendment of sections 1702-A,  
15   1703-A, 1704-A, 1705-A and 1706-A of the act shall be  
16   retroactive to January 1, 2011.

17       Section 6. This act shall take effect immediately.