



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

SENATE BILL NO. 815

PRINTER'S NO. 1271

PRIME SPONSOR: Baker

### COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
General Fund	See Fiscal Impact	See Fiscal Impact

### SUMMARY:

Senate Bill 815, Printer's Number 1271, would make changes to the taxation of grantor trusts and the Qualified Manufacturing Innovation and Reinvestment Deduction.

### ANALYSIS:

#### *Grantor Trusts*

The legislation amends Act 2 of 1971 (Tax Reform Code of 1971) by adding a subsection (c) to Section 302 stating that income received under the eight enumerated classes of income by a resident or nonresident trust from sources within the Commonwealth are taxable under the state Personal Income Tax to the grantor of the trust or another person to the extent the grantor or other person is treated as the owner of the trust under Sections 671 through 679 of the federal Internal Revenue Code, whether or not such income is distributed or distributable to the beneficiaries of the trust or accumulated.

The legislation also amends Section 305 (Taxability of Estates, Trusts and Their Beneficiaries) by adding a subsection (b) stating that the taxability of trusts under Section 305(a) does not apply to the extent the grantor or other person is taxable on the income of the trust pursuant to the provision added in Section 302(c).

These provisions would take effect 60 days upon enactment, and the changes would apply to tax years beginning on or after January 1 following the effective date of the legislation.

#### *Qualified Manufacturing Innovation and Reinvestment Deduction*

In addition, the legislation makes changes to the Manufacturing Innovation and Reinvestment Deduction (QMIRD) by lowering the minimum private capital investment from \$60 million to \$50 million. The calculation of eligible expenses for the deduction shall include payments made in advance of the start date of a project if the payments are made for the purchase of, or partial payment for, new equipment of the project that exceeds \$1 million in value. The bill also establishes the following project completion timelines with the corresponding private capital investment:

- For private capital investment of less than or equal to \$150,000,000, the project must be completed within three years of the project's start date, and the taxpayer would need to complete an application to attest that the project has been completed and the eligibility criteria has been satisfied (application) within five years of the project's start date;
- For private capital investment of more than \$150,000,001 and less than \$250,000,000, the project must be completed within five years of the project's start date, and the taxpayer would need to complete an application within seven years of the project's start date;
- For private capital investment of more than \$250,000,001 and less than \$350,000,000, the project must be completed within seven years of the project's start date, and the taxpayer would need to complete an application within nine years of the project's start date; and

- For private capital investment of more than \$350,000,001, the Department of Community and Economic Development shall establish the time period from the project's start date in which the project must be completed and the time period in which the taxpayer would need to complete an application.

The legislation further states that the maximum allowable deduction of 37.5 percent for projects with private capital investment greater than \$60 million but less than \$100 million shall only apply to applications made prior to January 1, 2024. Finally, the bill lowers the minimum private capital investment for the taxpayer to be eligible for a maximum allowable deduction of 25 percent of the private capital investment, with an annual deduction limit of five percent per year, from \$100 million to \$50 million.

These provisions would take effect immediately, and the changes would apply to tax years beginning after December 31, 2023.

#### **FISCAL IMPACT:**

##### *Grantor Trusts*

Enactment of this legislation will have a minimal impact on General Fund revenues. Currently, Pennsylvania law differs from federal law regarding the taxation of grantor trusts. Pennsylvania imposes the state Personal Income Tax on grantor trusts according to the same state Personal Income Tax rules that apply to irrevocable trusts unless the grantor trust is a wholly irrevocable trust. Therefore, beneficiaries of the trust are taxed on income required to be distributed currently or actually distributed or credited to them, and the grantor trust is taxable on the remainder. This legislation would align Pennsylvania law with federal law to change the party obligated to pay state taxes on income from the grantor trust, but it does not exclude the trust's income from being subject to taxation.

##### *Qualified Manufacturing Innovation and Reinvestment Deduction*

The modifications made to the QMIRD under this legislation would allow companies that invest between \$50 million and \$60 million to participate in the tax deduction, but it also lowers the percentage of the maximum deduction for companies that make private capital investments between \$60 million and \$100 million. As a result, companies within this private capital investment range under current law would experience a smaller deduction and a higher tax liability as a result of this change. According to the Department of Revenue, however, it is currently unknown what projects that companies seeking the QMIRD have planned and the corresponding private capital investment that they would make. Therefore, the fiscal impact of this provision is indeterminate at this time.

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**DATE:** December 12, 2023

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*