

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1848 Session of  
1999

INTRODUCED BY BOYES AND TRELLO, SEPTEMBER 27, 1999

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,  
DECEMBER 7, 1999

## 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," further providing for the calculation of the  
11 manufacturing, processing, research and development capital  
12 stock and franchise tax exemptions; continuing and expanding  
13 a tax credit to employers who hire certain individuals; and  
14 making a repeal.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 Section 1. Section 602(b) of the act of March 4, 1971  
18 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended May  
19 12, 1999 (P.L.26, No.4), is amended to read:

20 Section 602. Imposition of Tax.--\* \* \*

21 (b) (1) Every foreign entity from which a report is  
22 required under section 601 hereof, shall be subject to and pay  
23 to the department annually, a franchise tax which is the greater

1 of (i) the amount computed by multiplying each dollar of the  
2 capital stock value as defined in section 601(a) by the  
3 appropriate rate of tax as set forth in subsection (h); or (ii)  
4 the minimum tax set forth in subsection (i), upon a taxable  
5 value to be determined in the following manner. The capital  
6 stock value shall be ascertained in the manner prescribed in  
7 section 601(a) of this article. The taxable value shall then be  
8 determined by employing the relevant apportionment factors set  
9 forth in Article IV: Provided, That the manufacturing,  
10 processing, research and development exemptions contained under  
11 section 602(a) shall also apply to foreign corporations. [and in <—  
12 determining the relevant apportionment factors the numerator of  
13 the property, payroll, or sales] ~~or payroll~~ factors shall not <—  
14 include any property, payroll or sales] ~~or payroll~~ attributable <—  
15 to manufacturing, processing, research or development activities  
16 in the Commonwealth.]: and Provided further, That, except] ~~Any~~ <—  
17 IN DETERMINING THE RELEVANT APPORTIONMENT FACTORS, THE FOLLOWING <—  
18 SHALL APPLY:

19 (I) FOR ALL TAXABLE YEARS OTHER THAN SPECIFICALLY SET FORTH  
20 IN SUBCLAUSE (II) THE NUMERATOR OF THE PROPERTY, PAYROLL OR  
21 SALES FACTORS SHALL NOT INCLUDE ANY PROPERTY, PAYROLL OR SALES  
22 ATTRIBUTABLE TO MANUFACTURING, PROCESSING, RESEARCH OR  
23 DEVELOPMENT ACTIVITIES IN THE COMMONWEALTH;

24 (II) FOR THE TAXABLE YEARS BEGINNING AFTER DECEMBER 31,  
25 1998, AND BEGINNING BEFORE JANUARY 1, 2001, THE NUMERATOR OF THE  
26 PROPERTY OR PAYROLL FACTORS SHALL NOT INCLUDE ANY PROPERTY OR  
27 PAYROLL ATTRIBUTABLE TO MANUFACTURING, PROCESSING, RESEARCH OR  
28 DEVELOPMENT ACTIVITIES IN THE COMMONWEALTH AND ANY property or  
29 payroll attributable to manufacturing, processing, research or  
30 development activities outside of the Commonwealth shall also be

1 excluded from the numerator of the property or payroll factors.  
2 Except for the imposition of the minimum tax set forth in  
3 subsection (i), the provisions of this section shall not apply  
4 to the taxation of so much of the capital stock value  
5 attributable to student loan assets owned or held by an entity  
6 created for the securitization of student loans or by a trustee  
7 on its behalf. Any foreign corporation, joint-stock association,  
8 limited partnership or company subject to the tax prescribed  
9 herein may elect to compute and pay its tax under section  
10 602(a): Provided, That any foreign corporation, joint-stock  
11 association, limited partnership or company electing to compute  
12 and pay its tax under section 602(a) shall be treated as if it  
13 were a domestic corporation for the purpose of determining which  
14 of its assets are exempt from taxation and for the purpose of  
15 determining the proportion of the value of its capital stock  
16 which is subject to taxation.

17 (2) The provisions of this article shall apply to the  
18 taxation of entities organized for manufacturing, processing,  
19 research or development purposes, but shall not apply to such  
20 entities as enjoy and exercise the right of eminent domain.

21 \* \* \*

22 Section 2. Section 1701-A of the act, amended or added  
23 December 19, 1985 (P.L.356, No.102) and July 1, 1989 (P.L.109,  
24 No.23), is amended to read:

25 [Section 1701-A. Employment Incentive Payments.--(a) Any  
26 corporation, bank, savings institution, company, insurance  
27 company, or mutual thrift institution employing persons, who  
28 prior to their employment were recipients of aid to families  
29 with dependent children or who are classified as chronically or  
30 transitionally needy, pursuant to section 432 of the act of June

1 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code,"  
2 shall be entitled to employment incentive payments to be  
3 provided as a credit against taxes imposed by Article IV, VII,  
4 VIII, IX or XV of this act, and any person, partnership or  
5 proprietorship employing such persons shall be entitled to  
6 payments to be provided as a credit against taxes imposed by  
7 Article III of this act. For the purposes of computing any tax  
8 liabilities against which the credit may be applied, deductions  
9 from taxable income shall be reduced by employment incentive  
10 payments. Employment incentive payments unused as a tax credit  
11 in any taxable year may be carried over against tax liabilities  
12 of the employer in the three immediately subsequent taxable  
13 years.

14 (b) An employment incentive payment may be claimed by an  
15 employer who hires any person who is receiving aid to families  
16 with dependent children or who is classified as chronically or  
17 transitionally needy at the time of employment except that  
18 payments shall not be provided for:

19 (1) The employment of any person who displaces any other  
20 individual from employment, except persons discharged for cause  
21 as certified by the Office of Employment Security.

22 (2) The employment of any person closely related, as defined  
23 by paragraphs (1) through (8) of section 152(a) of the Internal  
24 Revenue Code, to the taxpayer, or, if the taxpayer is a  
25 corporation, to an individual who owns, directly or indirectly  
26 more than fifty per cent of the outstanding stock of the  
27 corporation, bank, savings institution, company, insurance  
28 company, or mutual thrift institution.

29 (3) The employment of an individual for whom the employer is  
30 simultaneously receiving federally or State funded job training

1 payments.

2 (4) The employment of an individual as a domestic or other  
3 household employe in the home of the employer.

4 (c) (1) The employment incentive payment shall be the sum  
5 of thirty per cent of the first six thousand dollars (\$6,000) of  
6 qualified first year wages for such year, twenty per cent of the  
7 first six thousand dollars (\$6,000) of qualified second year  
8 wages for such year and ten per cent of the first six thousand  
9 dollars (\$6,000) of the qualified third year wages for such  
10 year.

11 (2) If the employer provides or pays for day care services  
12 for the children of the employe, the employer shall be eligible  
13 to receive an additional employment incentive payment of up to  
14 six hundred dollars (\$600) during the first year of employment,  
15 five hundred dollars (\$500) during the second year of employment  
16 and four hundred dollars (\$400) during the third year of  
17 employment.

18 (3) Total employment incentive payments shall not exceed  
19 ninety per cent of total taxes paid by the employer against  
20 which the incentive payments may be claimed as a credit.  
21 Qualified wages must be cash remuneration to the employe,  
22 including any amounts deducted or withheld.

23 (d) To be eligible for employment incentive payments, the  
24 employment must continue for at least one year unless the  
25 employe voluntarily leaves the employment of the employer,  
26 becomes disabled or is terminated for cause. If the employe  
27 leaves his position voluntarily, becomes disabled, or is  
28 terminated for cause in less than one year, the employment  
29 incentive payment shall be reduced by the proportion of the year  
30 not worked. Employment initiated during the year may be claimed

1 as an employment incentive payment in the subsequent year.

2 (e) The Department of Revenue, in cooperation with the  
3 Department of Public Welfare and the Department of Labor and  
4 Industry, shall administer the provisions of this section,  
5 promulgate appropriate rules, regulations and forms for that  
6 purpose and make such determinations as may be required.  
7 Determinations made with respect to the employment incentive  
8 payment provided in this section may be reviewed and appealed in  
9 the manner provided by law for other corporate or personal tax  
10 credits. The Department of Public Welfare shall conduct a  
11 program of employer education to inform employers of the  
12 benefits available under this section as well as to inform them  
13 of any similar tax credits for hiring welfare recipients  
14 available under Federal law.

15 (f) The total amount of employment incentive payments  
16 authorized by this section shall not exceed twenty-five million  
17 dollars (\$25,000,000) in any fiscal year. To insure that credits  
18 are not claimed in excess of this amount, an employer may claim  
19 the incentive payments only upon presentation of an authorizing  
20 certificate. Certificates will be issued to the employer by the  
21 Department of Public Welfare upon presentation to the Department  
22 of Public Welfare of evidence of a qualifying offer of  
23 employment. If necessary to avoid certificate issuances in  
24 excess of the maximum authorized amount for any fiscal year, the  
25 department shall advise the Department of Public Welfare of the  
26 total number of certificates which may be issued in each  
27 calendar quarter. The Department of Public Welfare may issue  
28 certificates through the Office of Employment Security and may  
29 promulgate regulations to allocate certificates.

30 (g) Employment incentive payments shall not be available for

1 employees hired after June 30, 1993, unless reenacted by the  
2 General Assembly. Not later than September 1, 1990, and  
3 September 1 each year thereafter, the Department of Public  
4 Welfare shall report to the General Assembly on the  
5 effectiveness of incentive payments to encourage the employment  
6 of cash assistance recipients and recommend whether changes are  
7 needed in the program and whether the program should be  
8 continued. The report shall contain information, including the  
9 number of authorizing certificates issued by the Department of  
10 Public Welfare, the number of authorizing certificates accepted  
11 by the Department of Revenue from employers as evidence of  
12 qualified hires, the number and dollar amounts of tax credits  
13 approved by the Department of Revenue in each tax year, the  
14 average hourly starting wage of employees hired and the category  
15 of assistance received previously by employees hired. The report  
16 shall also include an analysis of the types of businesses  
17 identified as either corporations or individuals or partnerships  
18 which have had tax credits approved by the Department of Revenue  
19 and the types of employment positions into which employees have  
20 been hired as indicated by Standard Occupational Classification  
21 Codes. The report shall describe outreach and publicity efforts  
22 by the Department of Public Welfare. The report shall contain  
23 similar information about the day care tax credit authorized in  
24 subsection (c)(2). Credits may be claimed against taxes payable  
25 for tax years beginning January 1, 1989, and thereafter, and may  
26 be claimed for employees hired on or after January 1, 1989.]

27 Section 3. The act is amended by adding sections to read:

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

1 clearly indicates a different meaning:

2 "Eligible individual" means any of the following:

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

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

8 (3) A person who:

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

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

20 "Employment incentive payment" means the employment  
21 incentive payment credit provided by this article.

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

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

26 (2) A Pennsylvania S corporation.

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



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

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

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

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

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

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

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

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

28 (2) The employment of a person closely related, as defined  
29 by clauses (1) through (8) of section 152(a) of the Internal  
30 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et.

1 seq.), to the taxpayer, or, if the taxpayer is a corporation, to  
2 an individual who owns, directly or indirectly, more than 50% of  
3 the outstanding stock of the taxpayer.

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

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

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

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

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

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

23 The additional employment incentive payments under this  
24 paragraph shall be the expenses incurred by the taxpayer for  
25 services listed in subclauses (i) and (ii), but in no case  
26 shall the additional employment incentive payment for each  
27 eligible individual exceed eight hundred dollars (\$800)  
28 during the first year of employment, six hundred dollars  
29 (\$600) during the second year of employment or four hundred  
30 dollars (\$400) during the third year of employment.

1     (d) The employment incentive payment shall be utilized as a  
2     credit against a qualified tax liability to which the taxpayer  
3     is subject. The employment incentive payment applicable to a  
4     pass-through entity shall be allocated in the same manner as  
5     income is allocated.

6     (e) (1) Except in cases where an eligible individual  
7     voluntarily leaves the employment of the taxpayer, becomes  
8     disabled or is terminated for cause, no taxpayer shall be  
9     entitled to receive an employment incentive payment if the  
10    eligible individual is employed by the taxpayer for less than  
11    one year.

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

16    (f) The total employment incentive payment credit shall not  
17    exceed ninety per cent of the total taxes paid by the employer  
18    against which the employment incentive payments may be claimed  
19    as a credit.

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

23    (h) For the purposes of computing a tax liability against  
24    which the employment incentive payments may be applied,  
25    deductions from taxable income shall be reduced by the  
26    employment incentive payments.

27    Section 1704-A. Administration and Regulations.--The  
28    department, in cooperation with the Department of Public Welfare  
29    and the Department of Labor and Industry, shall administer the  
30    provisions of this article, promulgate appropriate rules,

regulations and forms for that purpose and make such determinations as may be required. Determinations made with respect to the employment incentive payment provided in this section may be reviewed and appealed in the manner provided by law for other corporate or personal tax credits.

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

Section 1706-A. Time Limitations and Report.--Employment incentive payments shall not be available for employees hired after December 31, 2004, unless reenacted by the General Assembly. Not later than July 1, 2004, the Secretary of Public Welfare shall report to the General Assembly on the effectiveness of incentive payments to encourage the employment of general assistance and temporary assistance to needy families recipients and recommend whether the program should be continued. Credits may be claimed against taxes payable for tax years beginning January 1, 2000, and thereafter, and may be claimed for employees hired after December 31, 1999.

1       Section 4. The amendment of section 602(b) of the act shall  
2 apply to taxable years beginning after December 31, 1998.

3       Section 5. It is the intent of the General Assembly that the  
4 addition of sections 1702-A through 1706-A of the act shall be  
5 deemed to be a continuation and expansion of the employment  
6 incentive payments program authorized in section 491 of the act  
7 of June 13, 1967 (P.L.31, No.21), known as the Public Welfare  
8 Code. Accordingly:

9       (1) Nothing in this act shall be construed to preclude  
10 consideration of applications for credits filed under section  
11 1701-A of the act or section 491 of the Public Welfare Code,  
12 which applications were filed prior to or on the effective date  
13 of this act.

14       (2) Nothing in this act shall be construed to preclude the  
15 utilization of credits which were approved but not applied under  
16 section 1701-A of the act or section 491 of the Public Welfare  
17 Code after the effective date of this act.

18       Section 6. Section 491 of the act of June 13, 1967 (P.L.31,  
19 No.21), known as the Public Welfare Code, is repealed insofar as  
20 it is inconsistent with this act.

21       Section 7. This act shall take effect January 1, 2000.