

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**

**No. 1306** Session of  
2003

INTRODUCED BY STETLER, MAY 5, 2003

REFERRED TO COMMITTEE ON FINANCE, MAY 5, 2003

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, in research and development  
11 tax credits, for carrying and assigning credits and for  
12 limitation on credits.

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

15 Section 1. Sections 1704-B and 1709-B(a) of the act of March  
16 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,  
17 added May 7, 1997 (P.L.85, No.7), are amended to read:

18 Section 1704-B. Carryover, Carryback, Refund and Assignment  
19 of Credit.--(a) The amount of the research and development tax  
20 credit that a taxpayer may use against any one qualified tax  
21 liability during any year may not exceed [fifty] seventy-five  
22 per cent of such qualified tax liability for that taxable year.

1 If the taxpayer cannot use the entire amount of the research and  
2 development tax credit for the taxable year in which the  
3 research and development tax credit is first approved, then the  
4 excess may be carried over to succeeding taxable years and used  
5 as a credit against the qualified tax liability of the taxpayer  
6 for those taxable years. Each time that the research and  
7 development tax credit is carried over to a succeeding taxable  
8 year, it is to be reduced by the amount that was used as a  
9 credit during the immediately preceding taxable year. The  
10 research and development tax credit provided by this article may  
11 be carried over and applied to succeeding taxable years for no  
12 more than fifteen taxable years following the first taxable year  
13 for which the taxpayer was entitled to claim the credit.

14 (b) A research and development tax credit approved by the  
15 department for Pennsylvania qualified research and development  
16 expense in a taxable year first shall be applied against the  
17 taxpayer's qualified tax liability for the current taxable year  
18 as of the date on which the credit was approved before the  
19 research and development tax credit is applied against any tax  
20 liability under subsection (a).

21 (c) A taxpayer is not entitled to carry back[, ] or obtain a  
22 refund of [or assign] an unused research and development tax  
23 credit.

24 (d) A taxpayer, upon application to and approval by the  
25 Department of Community and Economic Development, may sell or  
26 assign, in whole or in part, a research and development tax  
27 credit granted to the taxpayer under this article if no claim  
28 for allowance of the credit has been filed.

29 (e) The purchaser or assignee of a portion of a research and  
30 development tax credit under subsection (d) shall immediately

1 claim the credit in the taxable year in which the purchase or  
2 assignment is made. The purchaser or assignee may not carryover,  
3 carryback, obtain a refund of or assign the research and  
4 development tax credit. The purchaser or assignee shall notify  
5 the department of the derivative basis of the research and  
6 development tax credit in compliance with procedures specified  
7 by the department.

8 Section 1709-B. Limitation on Credits.--(a) The total  
9 amount of credits approved by the department shall not exceed  
10 [fifteen million dollars (\$15,000,000)] sixty million dollars  
11 (\$60,000,000) in any fiscal year. Of that amount, [three million  
12 dollars (\$3,000,000)] twelve million dollars (\$12,000,000) shall  
13 be allocated exclusively for small businesses. However, if the  
14 total amounts allocated to either the group of applicants  
15 exclusive of small businesses or the group of small business  
16 applicants is not approved in any fiscal year, the unused  
17 portion will become available for use by the other group of  
18 qualifying taxpayers.

19 \* \* \*

20 Section 2. The amendment of sections 1704-B and 1709-B(a) of  
21 the act shall apply to taxable years beginning after December  
22 31, 2002.

23 Section 3. This act shall take effect July 1, 2003, or  
24 immediately, whichever is later.