

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2669 Session of
2006

INTRODUCED BY BENNINGHOFF, ARMSTRONG, BAKER, BARRAR, CAUSER,
BEYER, BOYD, CALTAGIRONE, CAPPELLI, DALLY, BASTIAN, CIVERA,
CLYMER, CORNELL, DENLINGER, FAIRCHILD, GEIST, GEORGE,
GINGRICH, GOODMAN, HARHART, HARPER, HARRIS, HENNESSEY,
HERMAN, HERSHEY, HUTCHINSON, JAMES, KAUFFMAN, KENNEY,
KILLION, LEH, MANDERINO, MANN, MARKOSEK, MARSICO, McILHATTAN,
MELIO, NAILOR, O'NEILL, PALLONE, PETRARCA, PHILLIPS, PICKETT,
REED, REICHLEY, ROHRER, RUBLEY, SATHER, SAYLOR, SCAVELLO,
SCHRODER, SEMMEL, S. H. SMITH, R. STEVENSON, T. STEVENSON,
E. Z. TAYLOR, J. TAYLOR, THOMAS, TIGUE, TRUE, TURZAI, WALKO,
WATSON, WILT, YOUNGBLOOD AND YUDICHAK, MAY 11, 2006

REFERRED TO COMMITTEE ON FINANCE, MAY 11, 2006

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," providing for a tax credit for business health
11 care.

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

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
15 the Tax Reform Code of 1971, is amended by adding an article to
16 read:

17 ARTICLE XVII-D

18 SMALL BUSINESS HEALTH CARE TAX CREDIT

1 Section 1701-D. Scope.

2 This article relates to health care tax credits.

3 Section 1702-D. Definitions.

4 The following words and phrases when used in this article
5 shall have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

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

8 "Health care benefits." An entitlement provided to an
9 employee in accordance with a wage agreement that provides
10 prevention, treatment and management of illness and the
11 preservation of mental health and physical well-being through
12 the services offered by the medical and allied health
13 professions.

14 "Pass-through entity." Any of the following:

15 (1) A partnership, limited partnership, limited
16 liability company, business trust or other unincorporated
17 entity that for Federal income tax purposes is taxable as a
18 partnership.

19 (2) A Pennsylvania S corporation.

20 "Qualified tax liability." The liability for taxes imposed
21 under Article III, IV or VI. The term shall include the
22 liability for taxes imposed under Article III on an owner of a
23 pass-through entity.

24 "Secretary." The Secretary of Revenue of the Commonwealth.

25 "Small business." An employer who, on at least 25% of its
26 working days during the taxable year, employed fewer than 100
27 employees.

28 "Tax credit." The small business health care tax credit
29 authorized under this article.

30 "Taxpayer." An entity subject to tax under Article III, IV

1 or VI. The term shall include the shareholder, owner or member
2 of a pass-through entity that receives a tax credit.

3 Section 1703-D. Credit for small business health care.

4 (a) Application.--A taxpayer who is a small business and
5 provides health care benefits in a taxable year may apply for a
6 tax credit as provided in this article. By September 15, a
7 taxpayer must submit an application to the department for health
8 care benefits incurred in the taxable year that ended in the
9 prior calendar year.

10 (b) Amount.--A taxpayer that is qualified under subsection
11 (a) shall receive a tax credit for the taxable year in the
12 amount equal to 20% of the amount of expenses incurred by a
13 small business for providing health care benefits to its
14 employees.

15 (c) Notification.--By December 15 of the calendar year
16 following the close of the taxable year during which the health
17 care expense was incurred by the small business, the department
18 shall notify the taxpayer of the amount of the taxpayer's tax
19 credit approved by the department.

20 Section 1704-D. Carryover, carryback, refund and assignment of
21 credit.

22 (a) Carryover.--If the taxpayer cannot use the entire amount
23 of the tax credit for the taxable year in which the tax credit
24 is first approved, then the excess may be carried over to
25 succeeding taxable years and used as a credit against the
26 qualified tax liability of the taxpayer for those taxable years.
27 Each time that the tax credit is carried over to a succeeding
28 taxable year, it is to be reduced by the amount that was used as
29 a credit during the immediately preceding taxable year. The tax
30 credit may be carried over and applied to succeeding taxable

1 years for no more than 15 taxable years following the first
2 taxable year for which the taxpayer was entitled to claim the
3 credit.

4 (b) Application.--A tax credit approved by the department
5 for small business health care tax credit in a taxable year
6 first shall be applied against the taxpayer's qualified tax
7 liability for the current taxable year as of the date on which
8 the credit was approved before the tax credit is applied against
9 any tax liability under subsection (a).

10 (c) Unused credit.--A taxpayer is not entitled to assign,
11 carry back or obtain a refund of an unused tax credit.

12 Section 1705-D. Time limitations.

13 A taxpayer is not entitled to a tax credit for small business
14 health care expenses incurred in taxable years ending after
15 December 31, 2020.

16 Section 1706-D. Limitation on credits.

17 (a) Limit.--The total amount of tax credits approved by the
18 department shall not exceed \$25,000,000 in any fiscal year.

19 (b) Proration among applicants.--If the total amount of tax
20 credits applied for by all taxpayers, exclusive of small
21 businesses, exceeds the amount allocated for those credits, then
22 the tax credit to be received by each applicant shall be
23 prorated by the department among all applicants, exclusive of
24 small businesses, who have qualified for the credit.

25 (c) Proration among small business applicants.--If the total
26 amount of tax credits applied for by all small businesses
27 exceeds the amount allocated for those credits, then the tax
28 credit to be received by each small business applicant shall be
29 prorated by the department among all small business applicants
30 who have qualified for the credit.

1 Section 1707-D. Shareholder, owner or member pass-through.

2 (a) Shareholder credit.--If a Pennsylvania S corporation
3 does not have an eligible tax liability against which the tax
4 credit may be applied, a shareholder of the Pennsylvania S
5 corporation is entitled to a tax credit equal to the tax credit
6 determined for the Pennsylvania S corporation for the taxable
7 year multiplied by the percentage of the Pennsylvania S
8 corporation's distributive income to which the shareholder is
9 entitled.

10 (b) Pass-through entity credit.--If a pass-through entity
11 other than a Pennsylvania S corporation does not have an
12 eligible tax liability against which the tax credit may be
13 applied, an owner or member of the pass-through entity is
14 entitled to a tax credit equal to the tax credit determined for
15 the pass-through entity for the taxable year multiplied by the
16 percentage of the pass-through entities' distributive income to
17 which the owner or member is entitled.

18 (c) Additional credit.--The credit provided under subsection
19 (a) or (b) is in addition to any tax credit to which a
20 shareholder, owner or member of a pass-through entity is
21 otherwise entitled under this article. However, a pass-through
22 entity and a shareholder, owner or member of a pass-through
23 entity may not claim a credit under this article for the same
24 small business health care tax credit.

25 Section 1708-D. Report to General Assembly.

26 The secretary shall submit an annual report to the General
27 Assembly indicating the effectiveness of the credit provided by
28 this article no later than March 15 following the year in which
29 the credits were approved. The report shall include the names of
30 all taxpayers utilizing the credit as of the date of the report

1 and the amount of credits approved and utilized by each
2 taxpayer. Notwithstanding any law providing for the
3 confidentiality of tax records, the information contained in the
4 report shall be public information. The report may also include
5 any recommendations for changes in the calculation or
6 administration of the credit.

7 Section 1709-D. Termination.

8 The department shall not approve a tax credit under this
9 article for taxable years ending after December 31, 2020.

10 Section 1710-D. Regulations.

11 The secretary shall promulgate regulations necessary for the
12 implementation and administration of this article.

13 Section 2. This act shall apply to taxable years beginning
14 after December 31, 2005.

15 Section 3. This act shall take effect in 60 days.