

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2750 Session of
2006

INTRODUCED BY DeWEESE, VEON, FLAHERTY, BUXTON, CALTAGIRONE,
DALEY, EACHUS, FRANKEL, FREEMAN, GEORGE, GOODMAN, GRUCELA,
HANNA, LaGROTTA, LEACH, MANDERINO, MANN, MARKOSEK, McCALL,
MUNDY, READSHAW, SAINATO, SHANER, SIPTROTH, SOLOBAY, STABACK,
STURLA, SURRA, TANGRETTI, TIGUE AND WALKO, JUNE 13, 2006

REFERRED TO COMMITTEE ON FINANCE, JUNE 13, 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," further defining "taxable income" in corporate
11 net income tax; further providing for imposition of capital
12 stock and franchise tax; further defining "small business";
13 and further providing for credit for research and development
14 expenses, for limitation on credits and for termination.

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

17 Section 1. Section 401(3)2(a)(9) and 4(c) of the act of
18 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
19 1971, amended May 12, 1999 (P.L.26, No.4) and June 29, 2002
20 (P.L.559, No.89), are amended to read:

21 Section 401. Definitions.--The following words, terms, and
22 phrases, when used in this article, shall have the meaning

ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

(3) "Taxable income." * * *

2. In case the entire business of any corporation, other than a corporation engaged in doing business as a regulated investment company as defined by the Internal Revenue Code of 1986, is not transacted within this Commonwealth, the tax imposed by this article shall be based upon such portion of the taxable income of such corporation for the fiscal or calendar year, as defined in subclause 1 hereof, and may be determined as follows:

(a) Division of Income.

* * *

(9) (A) Except as provided in subparagraph (B)[, all business income shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus three times the sales factor, and the denominator of which is five.]:

(i) For taxable years beginning before January 1, 2007, all business income shall be apportioned to this State by multiplying the income by a fraction: the numerator of which is the property factor plus the payroll factor plus three times the sales factor; and the denominator of which is five.

(ii) For taxable years beginning in calendar year 2007, all business income shall be apportioned to this State by multiplying the income by a fraction: the numerator of which is the sum of fifteen times the property factor, fifteen times the payroll factor and seventy times the sales factor; and the denominator of which is one hundred.

1 (iii) For taxable years beginning in calendar year 2008, all
2 business income shall be apportioned to this State by
3 multiplying the income by a fraction: the numerator of which is
4 the sum of the property factor, the payroll factor and eight
5 times the sales factor; and the denominator of which is ten.

6 (iv) For taxable years beginning in calendar year 2009, all
7 business income shall be apportioned to this State by
8 multiplying the income by a fraction: the numerator of which is
9 the sum of one-half times the property factor, one-half times
10 the payroll factor and nine times the sales factor; and the
11 denominator of which is ten.

12 (v) For taxable years beginning in calendar year 2010, and
13 each taxable year thereafter, all business income shall be
14 apportioned to this State by multiplying the income by the sales
15 factor.

16 (B) For purposes of apportionment of the capital stock -
17 franchise tax as provided in section 602 of Article VI of this
18 act, the apportionment fraction shall be the property factor
19 plus the payroll factor plus the sales factor as the numerator,
20 and the denominator shall be three.

21 * * *

22 4. * * *

23 (c) (1) The net loss deduction shall be the lesser of [two
24 million dollars (\$2,000,000)] three million dollars (\$3,000,000)
25 or the amount of the net loss or losses which may be carried
26 over to the taxable year or taxable income as determined under
27 subclause 1 or, if applicable, subclause 2. In no event shall
28 the net loss deduction include more than five hundred thousand
29 dollars (\$500,000), in the aggregate, of net losses from taxable
30 years 1988 through 1994.

(2) A net loss for a taxable year may only be carried over pursuant to the following schedule:

Taxable Year	Carryover
1981	1 taxable year
1982	2 taxable years
1983-1987	3 taxable years
1988	2 taxable years plus
	1 taxable year
	starting with the
	1995 taxable year
1989	1 taxable year plus
	2 taxable years
	starting with the
	1995 taxable year
1990-1993	3 taxable years
	starting with the
	1995 taxable year
1994	1 taxable year
1995	
-1997	10 taxable years
1998 and thereafter	20 taxable years

The earliest net loss shall be carried over to the earliest taxable year to which it may be carried under this schedule. The total net loss deduction allowed in any taxable year shall not exceed [two million dollars (\$2,000,000)] three million dollars (\$3,000,000).

* * *

Section 2. Section 602(h) of the act, amended December 23, 2003 (P.L.250, No.46), is amended to read:

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

(h) The rate of tax for purposes of the capital stock and franchise tax for taxable years beginning within the dates set forth shall be as follows:

Taxable Year	Regular Rate	Surtax	Total Rate
January 1, 1971, to December 31, 1986	10 mills	0	10 mills
January 1, 1987, to December 31, 1987	9 mills	0	9 mills
January 1, 1988, to December 31, 1990	9.5 mills	0	9.5 mills
January 1, 1991, to December 31, 1991	11 mills	2 mills	13 mills
January 1, 1992, to December 31, 1997	11 mills	1.75 mills	12.75 mills
January 1, 1998, to December 31, 1998	11 mills	.99 mills	11.99 mills
January 1, 1999, to December 31, 1999	10.99 mills	0	10.99 mills
January 1, 2000, to December 31, 2000	8.99 mills	0	8.99 mills
January 1, 2001, to December 31, 2001	7.49 mills	0	7.49 mills
January 1, 2002, to December 31, 2003	7.24 mills	0	7.24 mills
January 1, 2004, to December 31, 2004	6.99 mills	0	6.99 mills
January 1, 2005, to December 31, 2005	5.99 mills	0	5.99 mills
[January 1, 2006, to December 31, 2006	4.99 mills	0	4.99 mills

1	January 1, 2007, to			
2	December 31, 2007	3.99 mills	0	3.99 mills
3	January 1, 2008, to			
4	December 31, 2008	2.99 mills	0	2.99 mills
5	January 1, 2009, to			
6	December 31, 2009	1.99 mills	0	1.99 mills
7	January 1, 2010, to			
8	December 31, 2010	.99 mills	0	.99 mills]
9	<u>January 1, 2006, to</u>			
10	<u>December 31, 2006</u>	<u>4.89 mills</u>	<u>0</u>	<u>4.89 mills</u>
11	<u>January 1, 2007, to</u>			
12	<u>December 31, 2007</u>	<u>3.89 mills</u>	<u>0</u>	<u>3.89 mills</u>
13	<u>January 1, 2008, to</u>			
14	<u>December 31, 2008</u>	<u>2.89 mills</u>	<u>0</u>	<u>2.89 mills</u>
15	<u>January 1, 2009, to</u>			
16	<u>December 31, 2009</u>	<u>1.89 mills</u>	<u>0</u>	<u>1.89 mills</u>
17	<u>January 1, 2010, to</u>			
18	<u>December 31, 2010</u>	<u>.89 mills</u>	<u>0</u>	<u>.89 mills</u>

19 * * *

20 Section 3. The definition of "small business" in section
 21 1702-B of the act, added May 7, 1997 (P.L.85, No.7), is amended
 22 to read:

23 Section 1702-B. Definitions.--The following words and
 24 phrases, when used in this article, shall have the meanings
 25 given to them in this section, except where the context clearly
 26 indicates a different meaning:

27 * * *

28 "Small business." A for-profit corporation, limited liability
 29 company, partnership or proprietorship with net book value of
 30 assets totaling, at the beginning or end of the taxable year for

1 which Pennsylvania qualified research and development expense is
2 incurred, as reported on the balance sheet, less than [five
3 million dollars (\$5,000,000)] ten million dollars (\$10,000,000).

4 * * *

5 Section 4. Section 1703-B of the act, added May 7, 1997
6 (P.L.85, No.7), is amended to read:

7 Section 1703-B. Credit for Research and Development
8 Expenses.--(a) A taxpayer who incurs Pennsylvania qualified
9 research and development expense in a taxable year may apply for
10 a research and development tax credit as provided in this
11 article. By September 15, a taxpayer must submit an application
12 to the department for Pennsylvania qualified research and
13 development expense incurred in the taxable year that ended in
14 the prior calendar year.

15 (b) A taxpayer that is qualified under subsection (a) shall
16 receive a research and development tax credit for the taxable
17 year in the amount of [ten] twenty per cent of the excess of the
18 taxpayer's total Pennsylvania qualified research and development
19 expense for the taxable year over the taxpayer's Pennsylvania
20 base amount.

21 (c) By December 15 of the calendar year following the close
22 of the taxable year during which the Pennsylvania qualified
23 research and development expense was incurred, the department
24 shall notify the taxpayer of the amount of the taxpayer's
25 research and development tax credit approved by the department.

26 Section 5. Section 1709-B(a) of the act, amended December 23,
27 2003 (P.L.250, No.46), is amended to read:

28 Section 1709-B. Limitation on Credits.--(a) The total amount
29 of credits approved by the department shall not exceed [thirty
30 million dollars (\$30,000,000)] forty million dollars

1 ~~(\$40,000,000)~~ in any fiscal year. Of that amount, [six million
2 dollars (\$6,000,000)] eight million dollars (\$8,000,000) shall
3 be allocated exclusively for small businesses. However, if the
4 total amounts allocated to either the group of applicants
5 exclusive of small businesses or the group of small business
6 applicants is not approved in any fiscal year, the unused
7 portion will become available for use by the other group of
8 qualifying taxpayers.

9 * * *

10 Section 6. Section 1712-B of the act, amended June 29, 2002
11 (P.L.559, No.89), is amended to read:

12 Section 1712-B. Termination.--The department shall not
13 approve a research and development tax credit under this article
14 for taxable years ending after December 31, [2006] 2011.

15 Section 7. This act shall apply as follows:

16 (1) The amendment of section 401 of the act shall apply
17 to taxable years beginning after December 31, 2006.

18 (2) The amendment of section 602(h) of the act shall
19 apply to taxable years beginning after December 31, 2005.

20 (3) The amendment of sections 1702-B, 1703-B, 1709-B(a)
21 and 1712-B of the act shall apply to all credits awarded after
22 July 1, 2006.

23 Section 8. This act shall take effect immediately.