

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2196 Session of  
2008

INTRODUCED BY SHAPIRO, LEVDANSKY, THOMAS, BENNINGTON, BOYD,  
BRENNAN, CALTAGIRONE, COHEN, DALEY, DePASQUALE, FREEMAN,  
GINGRICH, GRUCELA, HARHAI, HARKINS, JAMES, JOSEPHS, KORTZ,  
KULA, LEACH, LONGIETTI, MAHONEY, MANN, McGEEHAN, McILHATTAN,  
McILVAINE SMITH, MELIO, MOYER, MURT, NAILOR, M. O'BRIEN,  
PALLONE, PEIFER, PRESTON, READSHAW, REED, ROEBUCK, K. SMITH,  
SOLOBAY, SURRA, J. TAYLOR, WALKO, WATERS, WHEATLEY, J. WHITE,  
YOUNGBLOOD AND YUDICHAK, JANUARY 28, 2008

REFERRED TO COMMITTEE ON FINANCE, JANUARY 28, 2008

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 youth employment incentive tax  
11 credit.

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-F

18 YOUTH EMPLOYMENT INCENTIVE TAX CREDIT

19 Section 1701-F. Scope.

This article relates to youth employment incentive tax credits.

Section 1702-F. Definitions.

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

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

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

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

(2) A Pennsylvania S corporation.

"Qualified tax liability." The liability for taxes imposed under Article III, IV or VI. The term shall include the liability for taxes imposed under Article III on a shareholder of a pass-through entity.

"Qualified youth employee." A Pennsylvania resident individual between 14 and 21 years of age whose median family income does not exceed 235% of the Federal poverty level consistent with Temporary Assistance for Needy Families grants that serve purposes similar to those of this article. The term shall not make a distinction based on education.

"Qualified youth employment expense." Wages, fringe benefits, related payroll and training expenses, and other ancillary expenses paid by a taxpayer to or for the benefit of a qualified youth employee, provided that any ancillary expenses not enumerated in this definition are identified in the taxpayer's application and approved by the Department of Revenue. All qualified youth employment expenses incurred in a

1 taxable year shall be combined and treated as one qualified  
2 youth employment expense for purposes of this article.

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

4 "Tax credit." The Youth Employment Incentive Tax Credit  
5 authorized under this article.

6 "Taxpayer." An entity subject to tax under Article III, IV  
7 or VI or an entity that assigns credits to such entity in  
8 accordance with section 1704-F. The term shall include the  
9 shareholder, owner or member of a pass-through entity that  
10 receives a tax credit.

11 Section 1703-F. Credit for qualified youth employment expense.

12 (a) Application.--A taxpayer who incurs a qualified youth  
13 employment expense in a taxable year may apply for a tax credit  
14 as provided in this article. A taxpayer must submit a youth  
15 employment incentive tax credit application to its local  
16 workforce investment board. The local workforce investment board  
17 shall make a threshold determination as to whether the  
18 application is consistent with its determined criteria. The  
19 local workforce investment board shall submit applications that  
20 meet the threshold criteria to the department for its review.  
21 The Department of Community and Economic Development shall  
22 establish guidelines for the review and approval of applications  
23 under this subsection.

24 (b) Receipt.--If the department approves the taxpayer's  
25 application, the taxpayer and department shall execute a  
26 commitment letter containing the following:

27 (1) A description of the project.

28 (2) The number of new jobs to be created.

29 (3) The maximum youth employment incentive tax credit  
30 amount the taxpayer may claim.

1       (4) A signed statement that the taxpayer intends to  
2       maintain its operation in this Commonwealth for five years  
3       from the start date.

4       (5) Other information as the department deems  
5       appropriate.

6       (c) Commitment letter.--After a commitment letter has been  
7       signed by both the Commonwealth and the taxpayer, the taxpayer  
8       shall receive a youth employment incentive tax credit  
9       certificate and filing information.

10      (d) Amount.--A taxpayer shall receive a tax credit for the  
11      taxable year in the amount of 70% of the taxpayer's total  
12      qualified youth employment expense for the taxable year.

13      Section 1704-F. Carryover, carryback, refund and assignment of  
14                                      credit.

15      (a) Carryover.--If the taxpayer cannot use the entire amount  
16      of the tax credit for the taxable year in which the tax credit  
17      is first approved, then the excess may be carried over to  
18      succeeding taxable years and used as a credit against the  
19      qualified tax liability of the taxpayer for those taxable years.  
20      Each time that the tax credit is carried over to a succeeding  
21      taxable year, it is to be reduced by the amount that was used as  
22      a credit during the immediately preceding taxable year. The tax  
23      credit may be carried over and applied to succeeding taxable  
24      years for no more than 15 taxable years following the first  
25      taxable year for which the taxpayer was entitled to claim the  
26      credit.

27      (b) Application.--A tax credit approved by the department  
28      for a qualified youth employment expense in a taxable year first  
29      shall be applied in accordance with the commitment letter  
30      between the Commonwealth and the taxpayer.

1     (c) Prohibition.--A taxpayer is not entitled to carry back  
2     or obtain a refund of an unused tax credit.

3     (d) Sale or assignment.--A taxpayer, upon application to and  
4     approval by the Department of Community and Economic Development  
5     in accordance with section 1703-F, may sell or assign, in whole  
6     or in part, a tax credit granted to the taxpayer under this  
7     article if no claim for allowance of the credit is filed within  
8     one year from the date the credit is approved by the department  
9     under section 1703-F. The Department of Community and Economic  
10    Development shall establish guidelines for the approval of  
11    applications under this subsection.

12    (e) Claim and use.--The purchaser or assignee of a portion  
13    of a tax credit under subsection (d) shall immediately claim the  
14    credit in the taxable year in which the purchase or assignment  
15    is made. The amount of the tax credit that a purchaser or  
16    assignee may use against any one qualified tax liability may not  
17    exceed 75% of the qualified tax liability for the taxable year.  
18    The purchaser or assignee may not carry back, obtain a refund of  
19    or assign the tax credit. The purchaser or assignee shall notify  
20    the department of the seller or assignor.

21    Section 1705-F. Time limitations.

22    Except as provided in section 1704-F(a), a taxpayer is not  
23    entitled to a tax credit for qualified youth employment expenses  
24    incurred in taxable years ending after December 31, 2012.

25    Section 1706-F. Limitation on credits.

26    The total amount of tax credits approved by the department  
27    shall not exceed \$20,000,000 in any fiscal year.

28    Section 1707-F. Shareholder, owner or member pass-through.

29    (a) Application to Pennsylvania S corporations.--If a  
30    Pennsylvania S corporation does not have an eligible tax

1 liability against which the tax credit may be applied, a  
2 shareholder of the Pennsylvania S corporation is entitled to a  
3 tax credit equal to the tax credit determined for the  
4 Pennsylvania S corporation for the taxable year multiplied by  
5 the percentage of the Pennsylvania S corporation's distributive  
6 income to which the shareholder is entitled.

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

15 (c) Additional credit.--The credit provided under subsection  
16 (a) or (b) is in addition to any tax credit to which a  
17 shareholder, owner or member of a pass-through entity is  
18 otherwise entitled under this article. However, a pass-through  
19 entity and a shareholder, owner or member of a pass-through  
20 entity may not claim a credit under this article for the same  
21 qualified youth employment expense.

22 Section 1708-F. Termination.

23 Except for carryovers of previously awarded tax credits, the  
24 department shall not approve a tax credit under this article for  
25 taxable years ending after December 31, 2012.

26 Section 1709-F. Regulations.

27 The secretary shall promulgate regulations necessary for the  
28 implementation and administration of this article.

29 Section 2. This act shall apply to taxable years beginning  
30 after December 31, 2008.

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