

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2250 Session of
2008

INTRODUCED BY LEVDANSKY, R. TAYLOR, CAPPELLI, SEIP, NICKOL,
SANTONI, REED, FRANKEL, BOYD, STURLA, MANN, BELFANTI,
CALTAGIRONE, DeLUCA, DePASQUALE, GEIST, HARHAI, HARKINS,
HENNESSEY, HUTCHINSON, LONGIETTI, MARKOSEK, MUSTIO, PETRARCA,
RAMALEY, READSHAW, REICHLEY, RUBLEY, SIPTROTH, SURRA, THOMAS,
WALKO, YUDICHAK AND YOUNGBLOOD, MARCH 12, 2008

REFERRED TO COMMITTEE ON FINANCE, MARCH 12, 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," further providing for the carryover of the
11 research and development tax credit; and increasing the
12 annual limitation on credits.

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

15 Section 1. Section 1704-B of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
17 December 23, 2003 (P.L.250, No.46), is amended to read:

18 Section 1704-B. Carryover, Carryback, Refund and Assignment
19 of Credit.--(a) If the taxpayer, purchaser or assignee cannot
20 use the entire amount of the research and development tax credit
21 for the taxable year in which the research and development tax

1 credit is first approved, purchased or assigned, then the excess
2 may be carried over to succeeding taxable years and used as a
3 credit against the qualified tax liability of the taxpayer for
4 those taxable years. Each time that the research and development
5 tax credit is carried over to a succeeding taxable year, it is
6 to be reduced by the amount that was used as a credit during the
7 immediately preceding taxable year. The research and development
8 tax credit provided by this article may be carried over and
9 applied to succeeding taxable years for no more than fifteen
10 taxable years following the first taxable year for which the
11 taxpayer was entitled to claim the credit.

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

19 (c) A taxpayer, purchaser or assignee is not entitled to
20 carry back or obtain a refund of an unused research and
21 development tax credit.

22 (d) A taxpayer, upon application to and approval by the
23 Department of Community and Economic Development, may sell or
24 assign, in whole or in part, a research and development tax
25 credit granted to the taxpayer under this article if no claim
26 for allowance of the credit is filed [within one year] from the
27 date the credit is approved by the department under section
28 1703-B. The Department of Community and Economic Development
29 shall establish guidelines for the approval of applications
30 under this subsection.

1 (e) The purchaser or assignee of a portion of a research and
2 development tax credit under subsection (d) shall immediately
3 claim the credit in the taxable year in which the purchase or
4 assignment is made. The amount of the research and development
5 credit that a purchaser or assignee may use against any one
6 qualified tax liability may not exceed seventy-five per cent of
7 such qualified tax liability for the taxable year. The purchaser
8 or assignee may not [carry over,] carry back, obtain a refund of
9 or assign the research and development tax credit. The purchaser
10 or assignee shall notify the department of the seller or
11 assignor of the research and development tax credit in
12 compliance with procedures specified by the department.

13 Section 2. Section 1709-B(a) of the act, amended July 12,
14 2006 (P.L.1137, No.116), is amended to read:

15 Section 1709-B. Limitation on Credits.--(a) The total
16 amount of credits approved by the department shall not exceed
17 [forty million dollars (\$40,000,000)] seventy-five million
18 dollars (\$75,000,000) in any fiscal year. Of that amount, [eight
19 million dollars (\$8,000,000)] fifteen million dollars
20 (\$15,000,000) shall be allocated exclusively for small
21 businesses. However, if the total amounts allocated to either
22 the group of applicants exclusive of small businesses or the
23 group of small business applicants is not approved in any fiscal
24 year, the unused portion will become available for use by the
25 other group of qualifying taxpayers.

26 * * *

27 Section 3. This act shall apply to taxable years beginning
28 after December 31, 2007.

29 Section 4. This act shall take effect immediately.