

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 805 Session of 2009

INTRODUCED BY QUINN, ADOLPH, BAKER, BELFANTI, BEYER, BOBACK, BOYD, BRENNAN, CALTAGIRONE, FABRIZIO, FLECK, GEIST, GEORGE, GIBBONS, GINGRICH, GOODMAN, GRELL, GROVE, M. KELLER, KILLION, LONGIETTI, MANDERINO, MARSHALL, MICOZZIE, MOUL, MURT, MUSTIO, D. O'BRIEN, PETRARCA, PHILLIPS, PYLE, RAPP, READSHAW, REICHLEY, ROHRER, ROSS, SEIP, SIPTROTH, VULAKOVICH AND YOUNGBLOOD, MARCH 9, 2009

REFERRED TO COMMITTEE ON FINANCE, MARCH 9, 2009

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 employer child
 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-F

18 EMPLOYER CHILD CARE TAX CREDIT

19 Section 1701-F. Scope.

20 This article relates to employer child care tax credit.

1 Section 1702-F. Definitions.

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

5 "Child day care expense." Expenses paid to provide care in
6 lieu of parental care given for part of the 24-hour day to
7 children under 16 years of age, away from their own homes, but
8 does not include child day care furnished in places of worship
9 during religious services.

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

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

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

16 (2) A Pennsylvania S corporation.

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

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

22 "Small business." An employer who, on at least 50% of its 18
23 working days during the taxable year, employed fewer than 500
24 employees.

25 "Tax credit." The employer child care tax credit authorized
26 under this article.

27 "Taxpayer." A small business subject to tax under Article
28 III, IV or VI. The term shall include the shareholder, owner or
29 member of a pass-through entity that receives a tax credit.

30 Section 1703-F. Employer credit for child care.

1 (a) Application.--A taxpayer who incurs child day care
2 expense in a taxable year may apply for a tax credit as provided
3 in this article. By September 15 of each year, a taxpayer must
4 submit an application to the department for child day care
5 expense incurred in the taxable year that ended in the prior
6 calendar year.

7 (b) Amount.--A taxpayer that is qualified under subsection
8 (a) shall receive a tax credit for the taxable year in the
9 amount of 20% of the child day care expense.

10 (c) Notification.--By December 15 of the calendar year
11 following the close of the taxable year during which the child
12 day care expense was incurred, the department shall notify the
13 taxpayer of the amount of the taxpayer's tax credit approved by
14 the department.

15 Section 1704-F. Carryover, carryback, refund and assignment of
16 credit.

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

29 (b) Application.--An employer child care tax credit approved
30 by the department for child day care expense in a taxable year

1 first shall be applied against the taxpayer's qualified tax
2 liability for the current taxable year as of the date on which
3 the credit was approved before the tax credit is applied against
4 any tax liability under subsection (a).

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

7 Section 1705-F. Time limitations.

8 A taxpayer is not entitled to a tax credit for child day care
9 expenses incurred in taxable years ending after December 31,
10 2020.

11 Section 1706-F. Limitation on credits.

12 (a) Total amount.--The total amount of tax credits approved
13 by the department shall not exceed \$10,000,000 in any fiscal
14 year.

15 (b) Proration among applicants.--If the total amount of tax
16 credits applied for by all taxpayers exceeds the amount
17 allocated for those credits, then the tax credit to be received
18 by each applicant shall be prorated by the department among all
19 applicants who have qualified for the credit.

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

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

27 (a) Shareholder credit.--If a Pennsylvania S corporation
28 does not have an eligible tax liability against which the tax
29 credit may be applied, a shareholder of the Pennsylvania S
30 corporation is entitled to a tax credit equal to the tax credit

1 determined for the Pennsylvania S corporation for the taxable
2 year multiplied by the percentage of the Pennsylvania S
3 corporation's distributive income to which the shareholder is
4 entitled.

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

13 (c) Credit cumulation.--The credit provided under subsection
14 (a) or (b) is in addition to any tax credit to which a
15 shareholder, owner or member of a pass-through entity is
16 otherwise entitled under this article. However, a pass-through
17 entity and a shareholder, owner or member of a pass-through
18 entity may not claim a credit under this article for the same
19 child day care expense.

20 Section 1708-F. Report to General Assembly.

21 The secretary shall submit an annual report to the General
22 Assembly indicating the effectiveness of the credit provided by
23 this article no later than March 15 following the year in which
24 the credits were approved. The report shall include the names of
25 all taxpayers utilizing the credit as of the date of the report
26 and the amount of credits approved and utilized by each
27 taxpayer. Notwithstanding any law providing for the
28 confidentiality of tax records, the information contained in the
29 report shall be public information. The report may also include
30 any recommendations for changes in the calculation or

1 administration of the credit.

2 Section 1709-F. Termination.

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

5 Section 1710-F. Regulations.

6 The secretary shall promulgate regulations necessary for the
7 implementation and administration of this article.

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

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