

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1714 Session of
2009

INTRODUCED BY SONNEY, ADOLPH, CREIGHTON, DENLINGER, J. EVANS,
EVERETT, GABLER, GINGRICH, HUTCHINSON, M. KELLER, MURT,
OBERLANDER, PYLE, RAPP, ROAE, SIPTROTH AND YOUNGBLOOD,
JUNE 16, 2009

REFERRED TO COMMITTEE ON FINANCE, JUNE 16, 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," in film production tax credit, further providing
11 for limitations; and authorizing an onsite use natural gas
12 well tax credit.

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

15 Section 1. Section 1707-D(a) of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, added July
17 25, 2007 (P.L.373, No.55), is amended to read:

18 Section 1707-D. Limitations.

19 (a) Cap.--In no case shall the aggregate amount of tax
20 credits awarded in any fiscal year under this article exceed
21 [\$75,000,000] \$50,000,000.

22 * * *

1 Section 2. The act is amended by adding an article to read:

2 ARTICLE XVII-F

3 ONSITE USE NATURAL GAS WELL TAX CREDIT

4 Section 1701-F. Scope.

5 This article authorizes an onsite use natural gas well tax
6 credit.

7 Section 1702-F. Definitions.

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

11 "Cogeneration." The use of a heat engine or power station to
12 simultaneously generate space or water heat as well as
13 electricity.

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

15 "Expense." Any actual cost incurred by a taxpayer through
16 the construction of a qualified natural gas well.

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

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

22 (2) A Pennsylvania S corporation.

23 "Qualified natural gas well." A bore hole drilled on real
24 property owned or leased by a taxpayer for the purpose of
25 producing or extracting gas to be used for the following
26 purposes:

27 (1) onsite by the taxpayer for the purposes of space or
28 water heating for use in the taxpayer's primary residence; or

29 (2) onsite by the taxpayer for the purposes of space or
30 water heating or cogeneration for use in the taxpayer's small

1 business.

2 "Qualified tax liability." The liability for taxes imposed
3 under Article III, IV or VI. The term includes liability for
4 taxes imposed under Article III on an owner of a pass-through
5 entity.

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

7 "Small business." A Pennsylvania business employing 100 or
8 fewer employees during the taxable year for which a tax credit
9 article is sought.

10 "Tax credit." The onsite use natural gas well tax credit
11 authorized under this article.

12 "Taxpayer." A person or small business subject to tax under
13 Article III, IV or VI. The term includes the shareholder, owner
14 or member of a pass-through entity that receives a tax credit.
15 Section 1703-F. Credit for onsite use natural gas wells.

16 (a) General rule.--A taxpayer that incurs expenses through
17 drilling and construction of a qualified natural gas well in a
18 taxable year may apply for a tax credit as provided in this
19 article. By September 15, a taxpayer must submit an application
20 to the department for qualified natural gas well expenses
21 incurred in the taxable year that ended in the prior calendar
22 year.

23 (b) Amount of tax credit.--A taxpayer that is qualified
24 under subsection (a) shall receive a tax credit for the taxable
25 year in the amount of 25% of the total qualified natural gas
26 well expenses, not to exceed \$1,000,000.

27 (c) Notification to taxpayer.--By December 15 of the
28 calendar year following the close of the taxable year during
29 which the qualified natural gas well expenses were incurred, the
30 department shall notify the taxpayer of the amount of the

1 taxpayer's tax credit approved by the department.

2 Section 1704-F. Carryover, carryback, refund and assignment of
3 tax credit.

4 A tax credit is subject to the following provisions:

5 (1) If a taxpayer cannot use the entire amount of the
6 tax credit for the taxable year in which the tax credit is
7 first approved, then the excess may be carried over to
8 succeeding taxable years and used as a credit against the
9 qualified tax liability of the taxpayer for those taxable
10 years. Each time that the tax credit is carried over to a
11 succeeding taxable year, it shall be reduced by the amount
12 that was used as a credit during the immediately preceding
13 taxable year. The tax credit may be carried over and applied
14 to succeeding taxable years for no more than 15 taxable years
15 following the first taxable year for which the taxpayer was
16 entitled to claim the credit.

17 (2) The tax credit approved by the department for
18 qualified natural gas well expenses in a taxable year first
19 shall be applied against the taxpayer's qualified tax
20 liability for the current taxable year as of the date on
21 which the credit was approved before the tax credit is
22 applied against any tax liability under paragraph (1).

23 (3) A taxpayer is not entitled to assign, carry back or
24 obtain a refund of an unused tax credit.

25 Section 1705-F. Time limitations.

26 A taxpayer is not entitled to a tax credit for qualified
27 natural gas well expenses incurred in taxable years ending after
28 December 31, 2015.

29 Section 1706-F. Limitation on tax credits.

30 (a) Cap.--In no case shall the aggregate amount of tax

1 credits awarded in any fiscal year exceed \$25,000,000.

2 (b) Proration.--If the total amount of tax credits applied
3 for by all taxpayers exceeds the amount allocated for those
4 credits, then the tax credit to be received by each applicant
5 shall be prorated by the department among all applicants.

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

7 (a) General rule.--If a Pennsylvania S corporation does not
8 have an eligible tax liability against which the tax credit may
9 be applied, a shareholder of the Pennsylvania S corporation is
10 entitled to a tax credit equal to the tax credit determined for
11 the Pennsylvania S corporation for the taxable year multiplied
12 by the percentage of the Pennsylvania S corporation's
13 distributive income to which the shareholder is entitled.

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

22 (c) Nature of tax credit.--The tax credit provided under
23 subsection (a) or (b) is in addition to any tax credit to which
24 a shareholder, owner or member of a pass-through entity is
25 otherwise entitled under this article. However, a pass-through
26 entity and a shareholder, owner or member of a pass-through
27 entity may not claim a credit under this article for the same
28 qualified natural gas well expenses.

29 Section 1708-F. Report to General Assembly.

30 The secretary shall submit an annual report to the General

Assembly indicating the effectiveness of the tax credit no later
than March 15 following the year in which the tax credits were
approved. The report shall include the names of all taxpayers
utilizing the tax credit as of the date of the report and the
amount of tax credits approved and utilized by each taxpayer.
Notwithstanding any law providing for the confidentiality of tax
records, the information contained in the report shall be public
information. The report may also include any recommendations for
changes in the calculation or administration of the tax credit.

Section 1709-F. Regulations.

The secretary, in conjunction with the Department of
Environmental Protection, shall promulgate regulations necessary
for the implementation and administration of this article.

Section 3. This act shall apply to taxable years beginning
after December 31, 2009.

Section 4. This act shall take effect immediately.