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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 885 Session of 2011

INTRODUCED BY PYLE, BAKER, BOBACK, BOYD, CUTLER, DENLINGER, ELLIS, EVERETT, FABRIZIO, FLECK, GABLER, GEIST, GILLESPIE, GINGRICH, GROVE, HARHART, HESS, HUTCHINSON, KAUFFMAN, LONGIETTI, MAJOR, METCALFE, METZGAR, MILLER, MOUL, MURT, OBERLANDER, PEIFER, QUINN, RAPP, READSHAW, SONNEY, STEVENSON AND SWANGER, MARCH 2, 2011

REFERRED TO COMMITTEE ON FINANCE, MARCH 2, 2011

AN ACT

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," providing for deer processor tax credit.

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

Section 1. The act of act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended by adding an article to read:

ARTICLE XVII-G

DEER PROCESSOR'S TAX CREDIT

Section 1701-G. Scope.

This article relates to a deer processor's tax credit.

Section 1702-G. 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:

"Accepting registered public charity." An institution that meets the criteria under section 5 of the act of November 26, 1997 (P.L.508, No.55), known as the Institutions of Purely Public Charity Act, and accepts venison as a means of feeding the hungry.

"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 processing expense." The expense a processor incurs as a result of processing a single deer, from which the meat is being donated for the sole purpose of human consumption.

"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.

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

"Tax credit." The deer processor's tax credit authorized under this article.

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

Section 1703-G. Credit for qualified processing expense.

(a) Application.--A taxpayer may apply for a tax credit as provided in this article when the taxpayer incurs a qualified processing expense while donating the taxpayer's service to an individual who wishes to donate all of the consumable venison from a single deer to an accepting registered public charity. By September 15, a taxpayer must submit an application to the department for a qualified processing expense incurred in the taxable year that ended in the prior calendar year.

(b) Accountability.--The qualifying processor must retain for recordkeeping purposes each appropriate Pennsylvania Game Commission numbered and issued ear tag that is affixed to each deer being donated.

(c) Receipt.--A taxpayer that is qualified under subsection (a) shall receive a tax credit for the taxable year in the amount of $50 per deer processed. The maximum tax credit amount which a taxpayer that is qualified under subsection (a) shall receive may not exceed $2,500 for the taxable year.

(d) Notification.--By December 15 of the calendar year following the close of the taxable year during which the qualified processing expense was incurred, the department shall notify the taxpayer of the amount of the taxpayer's tax credit approved by the department.

Section 1704-G. Carryover, carryback, refund and assignment of credit.

(a) General rule.--If the taxpayer cannot use the entire amount of the tax credit for the taxable year in which the tax credit is first approved, then the excess may be carried over succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time that the tax credit is carried over to a succeeding taxable year, it is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The tax credit provided by this article may be carried over and applied to succeeding taxable years for no more than fifteen taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(b) Application.--A tax credit approved by the department for qualified processing expense in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was approved before the tax credit is applied against any tax liability under subsection (a).

(c) No carryback or refund.--A taxpayer is not entitled to carry back or obtain a refund of an unused tax credit.

Section 1705-G. Time limitations.

A taxpayer is not entitled to a tax credit for qualified processing expenses incurred in taxable years ending after December 31, 2014.

Section 1706-G. Limitation on credits.

(a) Total amount.--The total amount of tax credits approved by the department shall not exceed $100,000 in any fiscal year.

(b) Allocation of credits.--Tax credits under this article shall be provided on a first-come-first-served basis until all annual available credits have been allocated.

Section 1707-G. Shareholder, owner or member pass-through.

(a) Application to Pennsylvania S corporations.--If a Pennsylvania S corporation does not have an eligible tax liability against which the tax credit may be applied, a shareholder of the Pennsylvania S corporation is entitled to a tax credit equal to the tax credit determined for the Pennsylvania S corporation for the taxable year multiplied by the percentage of the Pennsylvania S corporation's distributive income to which the shareholder is entitled.

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

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

Section 1708-G. Termination.

The department shall not approve a tax credit under this article for taxable years ending after December 31, 2014.

Section 1709-G. Regulations.

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

Section 2. This act shall apply to taxable years beginning after December 31, 2010.

Section 3. This act shall take effect July 1, 2011, or immediately, whichever is later.