
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 46 Session of
2013

INTRODUCED BY GODSHALL, GINGRICH, PASHINSKI, CAUSER, BAKER,
HALUSKA, CLAY, SWANGER, BOBACK, LONGIETTI, DAVIS, MAJOR,
R. BROWN, MILLARD, PICKETT, COHEN, HAHN, KORTZ, ROCK, HESS,
WATSON, MATZIE, GIBBONS, MURT, DeLUCA, GILLEN, SAINATO,
MALONEY, BRADFORD, CALTAGIRONE, CLYMER AND EVERETT,
JANUARY 9, 2013

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, JUNE 17, 2014

AN ACT

1 ~~Amending the act of July 2, 2006 (P.L.292, No.65), entitled "An~~ <--
2 ~~act relating to organ and bone marrow donation; providing for~~
3 ~~a special leave of absence for organ and bone marrow donors;~~
4 ~~and providing for a tax credit and for additional duties of~~
5 ~~the Department of Revenue," further providing for~~
6 ~~applicability of act.~~

7 AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN <--
8 ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING
9 AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING
10 TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT,
11 COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING
12 FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND
13 IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN
14 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS
15 AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND
16 PENALTIES," CODIFYING THE ACT OF JULY 2, 2006 (P.L.292,
17 NO.65), KNOWN AS THE ORGAN AND BONE MARROW DONOR ACT; FURTHER
18 PROVIDING FOR APPLICABILITY; AND MAKING A RELATED REPEAL.

19 The General Assembly finds as follows:

20 (1) Each year an estimated 137,000 Americans contract
21 leukemia, lymphoma anemia or other fatal blood diseases.

22 (2) If a matched bone marrow donor can be found, many of
23 these victims can be cured.

1 (3) There is now a National Marrow Donor Program, and
2 the United States is working with 30 other countries to
3 establish a worldwide registry.

4 (4) Marrow donation does not involve considerable risk
5 to the donor.

6 (5) There are approximately 110,500 patients in the
7 United States and approximately 8,000 patients in this
8 Commonwealth awaiting lifesaving organ transplants.

9 (6) Many patients awaiting organ transplants could
10 benefit from living organ donation, including approximately
11 93,000 kidney patients, 16,900 liver patients and 2,000 lung
12 patients.

13 (7) Of the more than 1,700 organ transplants performed
14 in this Commonwealth in 2010, approximately 300 were from
15 living donors.

16 (8) There continues to be a great need for bone marrow
17 and organ donors among the African-American, Asian, Native
18 American and Hispanic communities.

19 (9) Potential living bone marrow and organ donors should
20 be able to perform their lifesaving service without risk of
21 loss of income or employment.

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

24 ~~Section 1. Section 6 of act of July 2, 2006 (P.L.292, <--~~
25 ~~No.65), known as the Organ and Bone Marrow Donor Act, is amended~~
26 ~~to read:~~

27 ~~Section 6. Applicability.~~

28 ~~This act shall apply to tax years commencing on or after~~
29 ~~January 1, 2006[, through any taxable year commencing within~~
30 ~~2010, and carryover credits provided for in section 3(c) may be~~

1 ~~used after 2010}.~~

2 ~~Section 2. The amendment of section 6 of the act shall apply~~
3 ~~retroactively to December 31, 2010.~~

4 SECTION 1. THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS <--
5 THE TAX REFORM CODE OF 1971, IS AMENDED BY ADDING AN ARTICLE TO
6 READ:

7 ARTICLE XVIII

8 ORGAN AND BONE MARROW DONATION CREDIT

9 SECTION 1801. SCOPE.

10 THIS ARTICLE RELATES TO TAX CREDITS FOR ORGAN AND BONE MARROW
11 DONATION.

12 SECTION 1802. DEFINITIONS.

13 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
14 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
15 CONTEXT CLEARLY INDICATES OTHERWISE:

16 "BUSINESS FIRM." AN ENTITY AUTHORIZED TO DO BUSINESS IN THIS
17 COMMONWEALTH AND SUBJECT TO THE TAXES IMPOSED BY ARTICLE III,
18 IV, VI, VII, VIII, IX OR XV. THIS TERM ALSO INCLUDES A NATURAL
19 PERSON AS SUCH OR AS A MEMBER OF A PARTNERSHIP OR A SHAREHOLDER
20 IN A PENNSYLVANIA S CORPORATION AND ESTATES AND TRUSTS RECEIVING
21 INCOME AS SET FORTH IN SECTION 1803.

22 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

23 "LEAVE OF ABSENCE PERIOD." THE PERIOD, NOT EXCEEDING FIVE
24 WORKING DAYS OR THE HOURLY EQUIVALENT OF FIVE WORKING DAYS PER
25 EMPLOYEE, DURING WHICH A BUSINESS FIRM PROVIDES A PAID LEAVE OF
26 ABSENCE TO THE EMPLOYEE FOR THE PURPOSE OF ORGAN OR BONE MARROW
27 DONATION. THE TERM DOES NOT INCLUDE A PERIOD DURING WHICH AN
28 EMPLOYEE UTILIZES ANY ANNUAL LEAVE OR SICK DAYS THAT THE
29 EMPLOYEE HAS BEEN GIVEN BY THE EMPLOYER.

30 "PASS-THROUGH ENTITY." A PARTNERSHIP OR PENNSYLVANIA S

1 CORPORATION AS DEFINED IN SECTION 301(N.0) AND (S.2),
2 RESPECTIVELY.

3 SECTION 1803. ORGAN AND BONE MARROW DONOR TAX CREDIT.

4 (A) QUALIFICATION.--

5 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), EVERY BUSINESS
6 FIRM WHICH PROVIDES ONE OR MORE PAID LEAVES OF ABSENCE TO
7 EMPLOYEES FOR THE SPECIFIC PURPOSE OF ORGAN OR BONE MARROW
8 DONATION SHALL QUALIFY FOR THE ORGAN OR BONE MARROW DONOR TAX
9 CREDIT. A BUSINESS FIRM WHICH QUALIFIES FOR THE CREDIT MAY
10 APPLY THAT CREDIT AGAINST ANY TAX DUE UNDER ARTICLE III, IV,
11 VI, VII, VIII, IX OR XV.

12 (2) NOTWITHSTANDING PARAGRAPH (1), THE CREDIT SHALL NOT
13 BE APPLIED AGAINST ANY TAX WITHHELD BY AN EMPLOYER FROM AN
14 EMPLOYEE UNDER ARTICLE III.

15 (B) CALCULATION OF CREDIT.--

16 (1) THE TAX CREDIT AMOUNT SHALL BE EQUAL TO THE AMOUNT
17 OF EMPLOYEE COMPENSATION PAID DURING THE LEAVE OF ABSENCE
18 PERIOD, THE COST OF TEMPORARY REPLACEMENT HELP, IF ANY,
19 DURING THE LEAVE OF ABSENCE PERIOD AND ANY MISCELLANEOUS
20 EXPENSES AUTHORIZED BY REGULATION THAT ARE INCURRED IN
21 CONNECTION WITH THE LEAVE OF ABSENCE PERIOD. CREDITS
22 CALCULATED FOR A BUSINESS FIRM SUBJECT TO TAX IN ANOTHER
23 STATE SHALL BE APPORTIONED TO THIS COMMONWEALTH IN THE MANNER
24 SPECIFIED BY REGULATION.

25 (2) IF THE EMPLOYEE ON PAID LEAVE OF ABSENCE IS EMPLOYED
26 BY A BUSINESS FIRM ORGANIZED AS A PASS-THROUGH ENTITY, THE
27 CREDIT SHALL BE CALCULATED IN PROPORTION TO THE MEMBER'S OR
28 SHAREHOLDER'S PORTION OF THE PASS-THROUGH ENTITY'S INCOME. IN
29 THE CASE OF A TRUST OR ESTATE WITH INCOME CREDITED TO OR
30 DISTRIBUTED TO A BENEFICIARY, THE CREDIT SHALL BE MEASURED IN

1 PROPORTION TO THE BENEFICIARY'S SHARE OF INCOME.

2 (C) UNUSED CREDIT.--CREDITS NOT USED FOR THE TAXABLE YEAR
3 DURING WHICH A LEAVE OF ABSENCE WAS GRANTED MAY BE CARRIED OVER
4 FOR THREE TAXABLE YEARS. CREDITS SHALL NOT BE CARRIED BACK
5 AGAINST PRECEDING TAXABLE YEARS AND SHALL NOT BE REFUNDABLE.

6 SECTION 1804. DUTIES OF DEPARTMENT.

7 (A) DUTIES ENUMERATED.--THE DEPARTMENT SHALL:

8 (1) IN THE MANNER PROVIDED BY LAW, PROMULGATE THE
9 REGULATIONS NECESSARY TO IMPLEMENT SECTION 1803.

10 (2) CREATE AND PUBLISH FORMS UPON WHICH TAXPAYERS MAY
11 APPLY FOR THE TAX CREDIT AUTHORIZED BY THIS ARTICLE.

12 (3) WITHIN FIVE MONTHS AFTER THE CLOSE OF ANY CALENDAR
13 YEAR DURING WHICH TAX CREDITS GRANTED PURSUANT TO THIS
14 ARTICLE WERE USED, FURNISH TO THE MEMBERS OF THE GENERAL
15 ASSEMBLY AN ANNUAL REPORT PROVIDING, AS TO EACH BUSINESS FIRM
16 WHICH USED TAX CREDITS DURING THE PRECEDING CALENDAR YEAR
17 PURSUANT TO THIS ARTICLE, THE EMPLOYER'S NAME, ADDRESS,
18 STANDARD INDUSTRIAL CLASSIFICATION CODE AND THE AMOUNT OF TAX
19 CREDITS GRANTED.

20 (B) CERTAIN PROVISIONS NOT TO APPLY.--THE PROVISIONS OF
21 SECTIONS 353(F) AND 408(B), RELATING TO CONFIDENTIALITY OF
22 INFORMATION, AND ANY OTHER PROVISIONS OF LAW PREVENTING THE
23 DISCLOSURE OF INFORMATION REQUIRED UNDER SUBSECTION (A) (3),
24 SHALL NOT APPLY WHEN THE INFORMATION IS DIVULGED FOR THE
25 PURPOSES OF SUBSECTION (A) (3).

26 SECTION 1805. PROCEDURES.

27 (A) DEADLINE FOR FILING APPLICATIONS.--APPLICATIONS FOR TAX
28 CREDITS SHALL BE FILED NOT LATER THAN THE 15TH DAY OF THE FOURTH
29 MONTH FOLLOWING THE CLOSE OF THE BUSINESS FIRM'S TAXABLE YEAR.

30 (B) NOTIFICATION OF TAX CREDIT AUTHORIZATION AND INCOMPLETE

1 APPLICATIONS.--

2 (1) THE DEPARTMENT SHALL NOTIFY THE BUSINESS FIRM
3 REGARDING THE AUTHORIZATION OF TAX CREDITS, INCLUDING THE
4 AMOUNT OF THE CREDIT AVAILABLE.

5 (2) THE DEPARTMENT MAY RETURN AN INCOMPLETE APPLICATION
6 TO THE BUSINESS FIRM OR REQUEST ADDITIONAL INFORMATION,
7 DOCUMENTS OR SIGNATURES FROM THE BUSINESS FIRM.

8 (3) AN APPLICATION SHALL BE COMPLETE AND PROCESSIBLE
9 ONLY IF IT IS SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE
10 BUSINESS FIRM AND CONTAINS THE INDIVIDUAL'S OR ENTITY'S NAME,
11 IDENTIFYING NUMBERS, ADDRESS AND SUFFICIENT PROOF, WHICH THE
12 DEPARTMENT MAY REQUIRE AT ITS DISCRETION, INCLUDING WRITTEN
13 VERIFICATION BY A PHYSICIAN OR SIMILAR DOCUMENTATION OF THE
14 LENGTH AND PURPOSE OF THE DONOR'S LEAVE AND THE AMOUNT OF THE
15 EMPLOYEE'S COMPENSATION AND COSTS ASSOCIATED WITH TEMPORARY
16 REPLACEMENT HELP AND PROOF THAT TEMPORARY REPLACEMENT HELP IS
17 NEEDED BECAUSE OF THE DONOR'S LEAVE.

18 (C) APPEALS.--APPEALS FROM DETERMINATIONS MADE PURSUANT TO
19 THIS ARTICLE SHALL BE MADE THROUGH THE ADMINISTRATIVE PROVISIONS
20 OF THIS ACT, APPLICABLE TO THE PARTICULAR TAXES AGAINST WHICH
21 THE BUSINESS FIRM OR ITS MEMBERS, SHAREHOLDERS OR BENEFICIARIES
22 CLAIM SUCH CREDITS.

23 SECTION 1806. APPLICABILITY.

24 (A) PRIOR LAW.--THIS ARTICLE SHALL NOT AFFECT TAXABLE YEARS
25 GOVERNED BY SECTION 6 OF THE FORMER ACT OF JULY 2, 2006
26 (P.L.292, NO.65), KNOWN AS THE ORGAN AND BONE MARROW DONOR ACT.

27 (B) CURRENT LAW.--THIS ARTICLE SHALL APPLY TO TAXABLE YEARS
28 BEGINNING AFTER DECEMBER 31, 2010.

29 SECTION 2. REPEALS ARE AS FOLLOWS:

30 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER

1 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF
2 ARTICLE XVIII OF THE ACT.

3 (2) THE ACT OF JULY 2, 2006 (P.L.292, NO.65), KNOWN AS
4 THE ORGAN AND BONE MARROW DONOR ACT, IS REPEALED.

5 Section 3. This act shall take effect ~~in 60 days~~ <--

6 IMMEDIATELY. <--