

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 74 Session of 2021

INTRODUCED BY MARTIN, K. WARD, MENSCH, AUMENT, ARGALL, STEFANO, REGAN, COSTA, BOSCOLA, FONTANA AND SANTARSIERO, MARCH 10, 2021

SENATOR BROWNE, APPROPRIATIONS, RE-REPORTED AS AMENDED, APRIL 27, 2021

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 pediatric cancer research tax
11 credit.

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:

ARTICLE XVII-M

PEDIATRIC CANCER RESEARCH TAX CREDIT

19 Section 1701-M. Scope of article.

20 This article relates to pediatric cancer research tax
21 credits.

1 Section 1702-M. 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 "Business firm." An entity authorized to do business in this
6 Commonwealth and subject to taxes imposed under Article III, IV,
7 VII, VIII, IX or XV. The term includes a pass-through entity.

8 "Contribution." A donation of cash to a pediatric cancer
9 research institution.

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

11 "Pass-through entity." A partnership as defined under
12 section 301(n.0) or a Pennsylvania S corporation as defined
13 under section 301(n.1).

14 "Pediatric cancer research institution." A hospital located
15 within this Commonwealth which is equipped and actively
16 conducting pediatric cancer research designated by the Secretary
17 of Health to be eligible to receive contributions under this
18 article.

19 "Tax credit." A tax credit for pediatric cancer research
20 authorized under this article.

21 Section 1703-M. Pediatric cancer research tax credit.

22 A tax credit shall be granted to a business firm that meets
23 the requirements under this article for the purposes of funding
24 pediatric cancer research in this Commonwealth.

25 Section 1704-M. Restriction on use of contributions.

26 The contributions received by a pediatric cancer research
27 institution from a business firm claiming a tax credit must be
28 used exclusively for pediatric cancer research.

29 Section 1705-M. Availability of tax credits.

30 (a) Application.--A business firm may submit an application

1 to the department for a tax credit. A business firm may receive
2 a tax credit if a pediatric cancer research institution receives
3 a contribution from the business firm as determined by the
4 department and in accordance with this article.

5 (b) Tax credit availability.--Tax credits under this section
6 shall be made available by the department on a first-come,
7 first-served basis.

8 (c) Contributions.--A contribution by a business firm to a
9 pediatric cancer research institution shall be made no later
10 than 30 days after the business firm receives notice of the
11 approval of the application under section 1707-M(b).

12 (d) Application in the alternative.--At the time of
13 application for a tax credit, the department shall advise a
14 business firm that the firm may elect that its application for a
15 tax credit for a contribution to a particular pediatric cancer
16 research institution will, in the alternative, be deemed an
17 application received by the department on the same date as the
18 preferred application, but for a different pediatric cancer
19 research institution authorized under this article if the
20 business firm's preferred choice of pediatric cancer research
21 institution has reached the \$2,500,000 limit under section 1709-
22 M. If a business firm does not receive its preferred choice of
23 pediatric cancer research institution, the department shall
24 promptly consider the business firm's application in the
25 alternative for a different pediatric cancer research
26 institution authorized under this article.

27 Section 1706-M. Duties.

28 (a) Department.--The department shall have the following
29 duties:

30 (1) Promulgating regulations necessary to implement this

1 article.

2 (2) Creating and publishing forms upon which business
3 firms may apply for the tax credit under this article.

4 (3) Approving or disapproving applications submitted by
5 business firms and providing notice of the approval or
6 disapproval to applicants under section 1707-M(b).

7 (4) Granting tax credit certificates in accordance with
8 section 1708-M.

9 (b) Secretary of Health.--On or before December 31 of each
10 year, the Secretary of Health shall designate the pediatric
11 cancer research institutions that are eligible to receive
12 contributions under this article for the following taxable year.

13 Section 1707-M. Procedures.

14 (a) Deadline for filing applications.--Applications for a
15 tax credit under this article shall be filed not later than
16 December 31.

17 (b) Notice.--

18 (1) The department shall notify the business firm
19 regarding the authorization of tax credits and its
20 determination, including the amount of the credit available.

21 (2) The department may return an incomplete application
22 to the business firm or request additional information,
23 documents or signatures from the business firm.

24 (c) Appeals.--Appeals from determinations made under
25 subsection (b) shall be made through the administrative
26 provisions of this act, applicable to the particular taxes
27 against which the business firm or its members, shareholders or
28 partners claim the tax credits.

29 Section 1708-M. Grant of tax credit certificates.

30 In accordance with section 1709-M(a), the department shall

1 grant a tax credit certificate to a business firm eligible to
2 receive a tax credit in accordance with this article. The
3 certificate may be used against a tax liability owed to the
4 department by a business firm that provides proof of a
5 contribution to a pediatric cancer research institution in the
6 taxable year in which the contribution is made. The business
7 firm may apply the credit against any tax due under Article III,
8 IV, VII, VIII, IX or XV, excluding any tax withheld by an
9 employer under Article III.

10 Section 1709-M. Amount of tax credits.

11 (a) General rule.--The total aggregate amount of all tax
12 credits approved shall not exceed \$10,000,000 in a fiscal year.
13 A tax credit may not be approved in excess of \$2,500,000 in a
14 fiscal year for contributions to any one pediatric cancer
15 research institution.

16 (b) Activities.--No tax credit shall be approved for
17 activities that are part of a business firm's normal course of
18 business.

19 Section 1710-M. Carryover and carryback.

20 (a) General rule.--If a business firm does not use all or
21 any portion of a tax credit for the taxable year in which the
22 tax credit is first approved, the excess may be carried over to
23 succeeding taxable years and used as a credit against the
24 qualified tax liability of the business firm for those taxable
25 years. Each time the tax credit is carried over to a succeeding
26 taxable year, it shall be reduced by the amount that was used as
27 a credit during the immediately preceding taxable year. The tax
28 credit provided by this article may be carried over and applied
29 to succeeding taxable years for no more than three taxable years
30 following the first taxable year for which the taxpayer was

1 entitled to claim the credit.

2 (b) Application.--A tax credit approved by the department in
3 a taxable year first shall be applied against the business
4 firm's qualified tax liability for the current taxable year as
5 of the date on which the tax credit was approved before the tax
6 credit can be applied against a tax liability under subsection
7 (a).

8 (c) No carryback or refund.--A business firm is not entitled
9 to carry back or obtain a refund of all or any portion of an
10 unused tax credit granted to the business firm under this
11 article.

12 Section 1711-M. Pass-through entity.

13 (a) General rule.--If a business firm which is a pass-
14 through entity has any unused tax credits under section 1710-M,
15 the pass-through entity may elect in writing, according to
16 procedures established by the department, to transfer all or a
17 portion of the tax credits to shareholders, members or partners
18 in proportion to the share of the entity's distributive income
19 to which each shareholder, member or partner is entitled.

20 (b) Limitation.--A pass-through entity and a shareholder,
21 member or partner of a pass-through entity may not claim the tax
22 credit under subsection (a) for the same contribution.

23 (c) Claim.--A shareholder, member or partner of a pass-
24 through entity to whom a tax credit is transferred under
25 subsection (a) shall immediately claim the tax credit in the
26 taxable year in which the transfer is made. The shareholder,
27 member or partner may not carry forward, carry back, obtain a
28 refund of or sell or assign the tax credit.

29 (d) Application.--An individual shareholder, member or
30 partner may apply a tax credit distributed under this section to

1 income taxable under Article III to the shareholder, member or
2 partner, to the spouse of the shareholder, member or partner or
3 to both, if both the shareholder, member or partner and the
4 spouse report income on a joint personal income tax return.

5 Section 1712-M. Sale or assignment.

6 (a) Authorization.--Upon approval by the department, a
7 business firm may sell or assign, in whole or in part, a tax
8 credit granted to the business firm under this article.

9 (b) Application.--The following shall apply:

10 (1) To sell or assign a tax credit, a business firm must
11 file an application for the sale or assignment of the tax
12 credit with the department. The application must be on a form
13 required by the department.

14 (2) The department shall approve a sale or assignment if
15 the purchaser or assignee has:

16 (i) filed all required State tax reports and returns
17 for all applicable taxable years; and

18 (ii) paid any balance of State tax due as determined
19 by assessment or determination by the department and not
20 under timely appeal.

21 Section 1713-M. Purchasers and assignees.

22 (a) Claim.--The purchaser or assignee of all or a portion of
23 a tax credit under section 1712-M shall immediately claim the
24 credit in the taxable year in which the purchase or assignment
25 is made.

26 (b) Amount.--The amount of the tax credit that a purchaser
27 or assignee may use against any one qualified tax liability may
28 not exceed 75% of the qualified tax liability for the taxable
29 year.

30 (c) Use.--The purchaser or assignee may not carry forward,

1 carry back or obtain a refund of or sell or assign the tax
2 credit.

3 Section 1714-M. Administration.

4 (a) Audits and assessments.--The department has the
5 following powers:

6 (1) To audit a business firm claiming a tax credit to
7 ascertain the validity of the amount claimed.

8 (2) To issue an assessment against a business firm for
9 an improperly issued tax credit. The procedures, collection,
10 enforcement and appeals of any assessment made under this
11 section shall be governed by Article IV.

12 (b) Guidelines.--The department shall develop written
13 guidelines for the implementation of this article.

14 Section 1715-M. Annual report to General Assembly.

15 By October 1, 2022, and October 1 of each year thereafter,
16 the department shall submit a report on the tax credit provided
17 by this article to the chairperson and minority chairperson of
18 the Appropriations Committee of the Senate, the chairperson and
19 minority chairperson of the Finance Committee of the Senate, the
20 chairperson and minority chairperson of the Appropriations
21 Committee of the House of Representatives and the chairperson
22 and minority chairperson of the Finance Committee of the House
23 of Representatives. The report must include:

24 (1) the names of the business firms utilizing the tax
25 credit as of the date of the report and the amount of tax
26 credits approved for, utilized by or sold or assigned by a
27 business firm during the preceding fiscal year; and

28 (2) the amount of contributions received by each of the <--
29 four pediatric cancer research institutes PEDIATRIC CANCER <--
30 RESEARCH INSTITUTION during the preceding fiscal year.

1 Section 1716-M. Limitation.

2 A business firm may not apply for a tax credit after the 10th
3 fiscal year after the effective date of this section.

4 Section 1717-M. Applicability.

5 The tax credit established under this article shall apply to
6 taxable years beginning after December 31, 2021.

7 Section 2. This act shall take effect in 60 days.