

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1834 Session of
2009

INTRODUCED BY HANNA, BELFANTI, CARROLL, EVERETT, FAIRCHILD,
GEORGE, GIBBONS, HORNAMAN, JOSEPHS, KORTZ, LONGIETTI,
MAHONEY, PHILLIPS, READSHAW AND WAGNER, JULY 8, 2009

REFERRED TO COMMITTEE ON TRANSPORTATION, JULY 8, 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 the Interstate 80 toll road impact
11 tax 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:

17 ARTICLE XVII-F

18 INTERSTATE 80 TOLL ROAD IMPACT TAX CREDIT

19 Section 1701-F. Scope of article.

20 This article relates to economic development tax credits for
21 businesses impacted by the conversion of Interstate 80 into a
22 toll road.

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 "Department." The Department of Community and Economic
6 Development of the Commonwealth.

7 "Manufacture." The term shall have the same meaning given to
8 it under section 201.

9 "Pass-through entity." A partnership as defined in section
10 301(n.0) or a Pennsylvania S corporation as defined in section
11 301(n.1).

12 "Qualified expense." All toll road expenses incurred by a
13 qualified taxpayer.

14 "Qualified taxpayer." A taxpayer that incurs toll road
15 expense.

16 "Qualified tax liability." The liability for taxes imposed
17 under Article III, IV or VI. The term shall not include any tax
18 withheld by an employer from an employee under Article III.

19 "Tax credit." The Interstate 80 toll road impact tax credit
20 provided under this article.

21 "Taxpayer." An entity subject to tax under Article III, IV
22 or VI. The term does not include contractors or subcontractors
23 of an entity.

24 "Toll road expense." Payment of any toll on Interstate 80 to
25 the Commonwealth or any agency or instrumentality thereof.

26 Section 1703-F. Tax credit for qualified expenses.

27 (a) Application.--A taxpayer may apply to the department for
28 a tax credit under this section. The application shall be on the
29 form required by the department.

30 (b) Review and approval.--The department shall review and

1 approve or disapprove the applications in the order in which
2 they are received. Upon determining the taxpayer has incurred
3 qualified expenses, the department may approve the taxpayer for
4 a tax credit.

5 (c) Contract.--If the department approves the taxpayer's
6 application under subsection (b), the department and the
7 taxpayer shall enter into a contract.

8 (d) Certificate.--Upon execution of the contract required by
9 subsection (c), the department shall award the taxpayer a tax
10 credit and issue the taxpayer a tax credit certificate.

11 Section 1704-F. Tax credits.

12 A taxpayer may claim a tax credit against the qualified tax
13 liability of the taxpayer.

14 Section 1705-F. Carryover, carryback and assignment of tax
15 credit.

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

28 (b) Application.--A tax credit approved by the department in
29 a taxable year first shall be applied against the taxpayer's
30 qualified tax liability for the current taxable year as of the

1 date on which the tax credit was approved before the tax credit
2 can be applied against any tax liability under subsection (a).

3 (c) No carryback or refund.--A taxpayer is not entitled to
4 carry back or obtain a refund of all or any portion of an unused
5 tax credit granted to the taxpayer under this article.

6 (d) (Reserved).

7 (e) Sale or assignment.--The following shall apply:

8 (1) A taxpayer, upon application to and approval by the
9 department, may sell or assign, in whole or in part, a tax
10 credit granted to the taxpayer under this article.

11 (2) The department and the Department of Revenue shall
12 jointly promulgate regulations for the approval of
13 applications under this subsection.

14 (3) Before an application is approved, the Department of
15 Revenue must make a finding that the applicant has filed all
16 required State tax reports and returns for all applicable
17 taxable years and paid any balance of State tax due as
18 determined at settlement, assessment or determination by the
19 Department of Revenue.

20 (4) Notwithstanding any other provision of law, the
21 Department of Revenue shall settle, assess or determine the
22 tax of an applicant under this subsection within 90 days of
23 the filing of all required final returns or reports in
24 accordance with section 806.1(a)(5) of the act of April 9,
25 1929 (P.L.343, No.176), known as The Fiscal Code.

26 (f) Purchasers and assignees.--The purchaser or assignee of
27 all or a portion of a tax credit under subsection (e) shall
28 immediately claim the tax credit in the taxable year in which
29 the purchase or assignment is made. The amount of the tax credit
30 that a purchaser or assignee may use against any one qualified

1 tax liability may not exceed 50% of such qualified tax liability
2 for the taxable year. The purchaser or assignee may not carry
3 forward, carry back or obtain a refund of or sell or assign the
4 tax credit. The purchaser or assignee shall notify the
5 Department of Revenue of the seller or assignor of the tax
6 credit in compliance with procedures specified by the Department
7 of Revenue.

8 Section 1706-F. Limitations.

9 (a) (Reserved).

10 (b) Individual limitations.--The aggregate amount of tax
11 credits awarded by the department under this article to a
12 taxpayer may not exceed 100% of the qualified expenses incurred.

13 Section 1707-F. Pass-through entity.

14 (a) General rule.--If a pass-through entity has any unused
15 tax credit under this article, it may elect in writing,
16 according to procedures established by the Department of
17 Revenue, to transfer all or a portion of the tax credit to
18 shareholders, members or partners in proportion to the share of
19 the entity's distributive income to which the shareholders,
20 members or partners are entitled.

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

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

30 Section 1708-F. Department guidelines and regulations.

1 The department shall develop written guidelines for the
2 implementation of the provisions of this article. The guidelines
3 shall be in effect until such time as the department promulgates
4 regulations for the implementation of the provisions of this
5 article. The department shall promulgate regulations for the
6 implementation of this article within two years of the effective
7 date of this section.

8 Section 1709-F. Report to General Assembly.

9 (a) General rule.--No later than June 1, 2009, and September
10 1 of each year thereafter, the Secretary of Community and
11 Economic Development shall submit a report to the General
12 Assembly summarizing the effectiveness of the tax credit
13 provided by this article. The report shall include the names of
14 all taxpayers utilizing the tax credit as of the date of the
15 report and the amount of tax credits approved for, utilized by
16 or sold or assigned by each taxpayer. The report may also
17 include any recommendations for changes in the calculation or
18 administration of the tax credit. The report shall be submitted
19 to the chairman and minority chairman of the Appropriations
20 Committee of the Senate, the chairman and minority chairman of
21 the Finance Committee of the Senate, the chairman and minority
22 chairman of the Appropriations Committee of the House of
23 Representatives and the chairman and minority chairman of the
24 Finance Committee of the House of Representatives.

25 (b) Public information.--Notwithstanding any law providing
26 for the confidentiality of tax records, the information in the
27 report shall be public information, and all report information
28 shall be posted on the department's Internet website.

29 Section 2. This act shall apply to taxable years commencing
30 on and after January 1 of the year following the date of

1 enactment.

2 Section 3. This act shall take effect immediately.