

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 535 Session of
2003

INTRODUCED BY RUBLEY, ADOLPH, BAKER, BARD, BEBKO-JONES, BELARDI, BELFANTI, BOYES, BROWNE, BUNT, CAPPELLI, CAWLEY, CORRIGAN, COSTA, COY, CRAHALLA, CURRY, DAILEY, DeLUCA, DeWEESE, FORCIER, FRANKEL, FREEMAN, GANNON, GEIST, GEORGE, GORDNER, GRUCELA, GRUITZA, HARHAI, HARPER, HENNESSEY, HERMAN, HERSHEY, HORSEY, HUTCHINSON, JAMES, KOTIK, LAUGHLIN, LEVDANSKY, MACKERETH, MANDERINO, MANN, MARKOSEK, MARSICO, McCALL, McILHATTAN, MELIO, S. MILLER, MUNDY, NAILOR, PAYNE, PETRARCA, PICKETT, PISTELLA, PRESTON, READSHAW, REICHLEY, ROSS, SAINATO, SANTONI, SATHER, SCAVELLO, SCHRODER, SCRIMENTI, SEMMEL, B. SMITH, SOLOBAY, STABACK, STURLA, SURRA, TANGRETTI, E. Z. TAYLOR, J. TAYLOR, THOMAS, TIGUE, TRUE, TURZAI, WALKO, WANSACZ, WASHINGTON, WATSON, WOJNAROSKI, YOUNGBLOOD, YUDICHAK AND ZUG, FEBRUARY 26, 2003

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 26, 2003

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," further defining "poverty income"; further
11 providing for exemptions from the utilities gross receipts
12 tax; and providing for a child-care tax credit.

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

15 Section 1. Section 301(o.2) of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
17 December 13, 1991 (P.L.373, No.40), is amended to read:

1 Section 301. Definitions.--The following words, terms and
2 phrases when used in this article shall have the meaning
3 ascribed to them in this section except where the context
4 clearly indicates a different meaning, and unless specifically
5 provided otherwise, any reference in this article to the
6 Internal Revenue Code of 1986 shall mean the Internal Revenue
7 Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), as
8 amended to January 1, 1997:

9 * * *

10 (o.2) "Poverty income" means for the purpose of determining
11 eligibility for special tax provisions all moneys or property
12 (including interest, gains or income derived from obligations
13 which are statutorily free from State or local taxation under
14 any other act of the General Assembly of the Commonwealth of
15 Pennsylvania or under the laws of the United States) received of
16 whatever nature and from whatever source derived, but not
17 including (i) periodic payments for sickness and disability
18 other than regular wages received during a period of sickness or
19 disability; or (ii) disability, retirement or other payments
20 arising under workmen's compensation acts, occupational disease
21 acts and similar legislation by any government; or (iii)
22 payments commonly recognized as old age or retirement benefits
23 paid to persons retired from service after reaching a specific
24 age or after a stated period of employment; or (iv) payments
25 commonly known as public assistance or unemployment compensation
26 payments by any governmental agency; or (v) payments to
27 reimburse actual expenses; or (vi) payments made by employers or
28 labor unions for programs covering hospitalization, sickness,
29 disability or death, supplemental unemployment benefits, strike
30 benefits, Social Security and retirement; or (vii) any

1 compensation received by United States servicemen serving in a
2 combat zone. "Poverty income" shall be reduced by the real
3 property taxes paid by the taxpayer on the taxpayer's principal
4 residence.

5 * * *

6 Section 2. Section 1101(g) of the act, added June 23, 1982
7 (P.L.610, No.172), is amended to read:

8 Section 1101. Imposition of Tax.--* * *

9 (g) Certain Gross Receipts not Taxed.--The tax otherwise
10 imposed pursuant to this section upon gross receipts derived
11 from the sale of electricity shall not however be imposed upon
12 those portions of the gross receipts of an electric light
13 company attributable to the following sources:

14 (1) the net increase in its gross receipts resulting from
15 recovery from its customers of the costs of purchases of
16 additional energy necessitated by the physical or legal
17 inability to operate a nuclear generating facility as a result
18 of an accident or natural disaster causing material damage to
19 that facility or to a similar associated facility located
20 immediately adjacent, whereupon either the damaged facility,
21 another located immediately adjacent, or both, have been removed
22 from the company's rate base for a period exceeding twenty-five
23 months. The Department of Revenue shall request the Public
24 Utility Commission to determine, for each such facility, the net
25 increase in the gross receipts of its electric company owner for
26 the immediate prior twelve-month period. This determination
27 shall reflect the difference between the increased gross
28 receipts of the company attributable to recovery of costs for
29 purchase of replacement energy which otherwise would have been
30 normally generated by the inoperative facility in such twelve-

1 month period less the reduction in the company's gross receipts
2 attributable to removal of the capital costs of the facility
3 from the company's rate base and less the reduction in the
4 company's gross receipts attributable to reduction in operating
5 expenses that would have otherwise been incurred by normal
6 operation of the facility in such twelve-month period. The
7 Public Utility Commission shall, immediately after supplying the
8 requested data, proceed to make the appropriate revision in the
9 State tax adjustment charge of the electric company;

10 (2) recovery from its customers of costs incurred in
11 connection with the clean-up and decontamination of a nuclear
12 generating facility which has experienced a major accident or
13 natural disaster and has been removed from the electric light
14 company's rate base; [and]

15 (3) recovery from its customers of costs for the
16 amortization of investments in a nuclear generating facility
17 whose removal from the rate base of an electric light company
18 has been approved by the Public Utility Commission on account of
19 a major accident or natural disaster[.]; and

20 (4) accounts of customers who are residents of this
21 Commonwealth, who are sixty-five years of age or older, and who
22 have an annual household income under \$20,000, provided that the
23 electric light company reduces the rates of those customers
24 proportionately to the amount of tax avoided by the application
25 of this clause. Notwithstanding any other provision of law, an
26 electric light company is authorized to reduce rates to such
27 customers in order to comply with this clause.

28 * * *

29 Section 3. The act is amended by adding an article to read:

30 ARTICLE XIX-B

1 CHILD-CARE TAX CREDIT

2 Section 1901-B Short Title.--This article shall be known and
3 may be cited as the Child-care Tax Credit Act.

4 Section 1902-B. Definitions.--The following words and
5 phrases when used in this article shall have the meanings
6 ascribed to them in this section except where the context
7 clearly indicates a different meaning:

8 "Business firm." A corporation, partnership, sole
9 proprietorship or other entity authorized to do business in this
10 Commonwealth and subject to any of the taxes imposed by Article
11 III, IV, VI, VII, VIII, IX or XV of this act.

12 "Contributions." Payments made to a child-care facility not
13 owned or operated by the business firm for child-care services
14 for the children of employes of the business firm.

15 "Credit." The child-care tax credit.

16 "Net costs." Amounts expended for the operation of a child-
17 care facility reduced by the fees or charges paid by the users
18 of the child-care facility services.

19 Section 1903-B. Authorization of Credit.--(a) A business
20 firm that operates its own child-care facility which meets the
21 following requirements shall be eligible for the tax credit:

22 (1) The child-care facility has been issued a valid license
23 by the Department of Public Welfare.

24 (2) Children of the business firm's employes utilize the
25 facility on a regular basis.

26 (3) At least fifty per cent of the employes utilizing the
27 child-care facility are not individuals who own more than ten
28 per cent of the business firm.

29 (4) The child-care program equitably benefits groups of
30 employees who qualify under a classification set up by the

business firm which is not discriminatory in favor of officers, shareholders, owners or their dependents.

(5) At least eighty per cent of the children utilizing the child-care facility are children of the business firm's employees.

(b) A business firm which makes contributions to a child-care facility not owned or operated by the business firm shall be eligible for the tax credit if the following requirements are met:

(1) The child-care facility has been issued a valid license by the Department of Public Welfare.

(2) At least fifty per cent of the employees utilizing the child-care facility are not individuals who own more than ten per cent of the business firm.

(3) The child-care program equitably benefits groups of employees who qualify under a classification set up by the business firm which is not discriminatory in favor of officers, shareholders, owners or their dependents.

Section 1904-B. Calculation of Credit.--(a) The amount of the tax credit available to a business firm which qualifies under this article and operates its own not-for-profit child-care facility shall be equal to twenty-five per cent of the net costs of the child-care facility.

(b) The amount of the tax credit available to a business firm which qualifies under this article and contributes to a child-care facility not owned or operated by the business firm shall be equal to twenty-five per cent of the contributions made by the business firm to the child-care facility.

(c) The annual credit allowed under this section shall not exceed twenty-five thousand dollars (\$25,000) per business firm.

1 Section 1905-B. Taxes Against Which Credit May Be Taken.--

2 (a) Except as provided in subsection (b), the tax credits
3 provided for in this article may be applied against any tax due
4 under Article III, IV, VI, VII, VIII, IX or XV of this act.

5 (b) The tax credits provided for in this article shall not
6 be applied against employer withholding taxes required under
7 Article III of this act.

8 Section 1906-B. Powers and Duties.--(a) The Department of
9 Revenue, in cooperation with the Department of Public Welfare,
10 shall administer the provisions of this article, promulgate
11 appropriate rules, regulations and forms for that purpose and
12 make such determinations as may be required.

13 (b) Child-care tax credits may be claimed only upon
14 presentation of an authorizing certificate. Certificates will be
15 issued to a business firm upon presentation to the Department of
16 Public Welfare of evidence of eligibility under this article.

17 (c) The Secretary of Public Welfare and the Secretary of
18 Revenue shall submit an annual report to the General Assembly
19 indicating the effectiveness of the credit provided by this act
20 no later than March 15 following the year in which the credits
21 were issued. The report shall include the number of taxpayers
22 utilizing the credit as of the date of the report and the amount
23 of credits issued and utilized. The report may also include any
24 recommendations for changes in the calculation or administration
25 of the credit.

26 Section 1907-B. Limitations.--The total amount of child-care
27 credits authorized by this article shall not exceed twenty-five
28 million dollars (\$25,000,000) in any fiscal year. The Department
29 of Public Welfare shall promulgate regulations to issue
30 certificates and avoid certificate issuances in excess of the

1 maximum authorized amount for any fiscal year.

2 Section 1908-B. Time Periods for Earning and Using
3 Credits.--Child-care credits may be issued for net costs or
4 contributions occurring on or after January 1, 2003, and before
5 January 1, 2008. Child-care credits issued may be claimed
6 against taxes payable for tax years beginning on or after
7 January 1, 2004, and before January 1, 2010.

8 Section 4. All acts and parts of acts are repealed insofar
9 as they are inconsistent with this act.

10 Section 5. This act shall apply to tax years beginning on or
11 after January 1, 2003.

12 Section 6. This act shall take effect immediately.