

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 550 Session of
2003

INTRODUCED BY C. WILLIAMS, CORMAN, O'PAKE, WAGNER, MUSTO, STOUT,
LOGAN, TARTAGLIONE, COSTA, BOSCOLA, CONTI, RAFFERTY, ERICKSON
AND RHOADES, MARCH 31, 2003

SENATOR EARLL, FINANCE, AS AMENDED, JUNE 16, 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 providing for CARRYOVER, CARRYBACK, <—
11 REFUND AND ASSIGNMENT OF CREDIT AND FOR a limitation on
12 credits.

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

15 ~~Section 1. Section 1709-B of the act of March 4, 1971~~ <—
16 ~~(P.L.6, No.2), known as the Tax Reform Code of 1971, added May~~
17 ~~7, 1997 (P.L.85, No.7), is amended to read:~~

18 SECTION 1. SECTIONS 1704-B AND 1709-B OF THE ACT OF MARCH 4, <—
19 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, ADDED
20 MAY 7, 1997 (P.L.85, NO.7), ARE AMENDED TO READ:

21 SECTION 1704-B. CARRYOVER, CARRYBACK, REFUND AND ASSIGNMENT
22 OF CREDIT.--(A) THE AMOUNT OF THE RESEARCH AND DEVELOPMENT TAX

1 CREDIT THAT A TAXPAYER MAY USE AGAINST ANY ONE QUALIFIED TAX
2 LIABILITY DURING ANY YEAR MAY NOT EXCEED [FIFTY] SEVENTY-FIVE
3 PER CENT OF SUCH QUALIFIED TAX LIABILITY FOR THAT TAXABLE YEAR.
4 IF THE TAXPAYER CANNOT USE THE ENTIRE AMOUNT OF THE RESEARCH AND
5 DEVELOPMENT TAX CREDIT FOR THE TAXABLE YEAR IN WHICH THE
6 RESEARCH AND DEVELOPMENT TAX CREDIT IS FIRST APPROVED, THEN THE
7 EXCESS MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS AND USED
8 AS A CREDIT AGAINST THE QUALIFIED TAX LIABILITY OF THE TAXPAYER
9 FOR THOSE TAXABLE YEARS. EACH TIME THAT THE RESEARCH AND
10 DEVELOPMENT TAX CREDIT IS CARRIED OVER TO A SUCCEEDING TAXABLE
11 YEAR, IT IS TO BE REDUCED BY THE AMOUNT THAT WAS USED AS A
12 CREDIT DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE
13 RESEARCH AND DEVELOPMENT TAX CREDIT PROVIDED BY THIS ARTICLE MAY
14 BE CARRIED OVER AND APPLIED TO SUCCEEDING TAXABLE YEARS FOR NO
15 MORE THAN FIFTEEN TAXABLE YEARS FOLLOWING THE FIRST TAXABLE YEAR
16 FOR WHICH THE TAXPAYER WAS ENTITLED TO CLAIM THE CREDIT.

17 (B) A RESEARCH AND DEVELOPMENT TAX CREDIT APPROVED BY THE
18 DEPARTMENT FOR PENNSYLVANIA QUALIFIED RESEARCH AND DEVELOPMENT
19 EXPENSE IN A TAXABLE YEAR FIRST SHALL BE APPLIED AGAINST THE
20 TAXPAYER'S QUALIFIED TAX LIABILITY FOR THE CURRENT TAXABLE YEAR
21 AS OF THE DATE ON WHICH THE CREDIT WAS APPROVED BEFORE THE
22 RESEARCH AND DEVELOPMENT TAX CREDIT IS APPLIED AGAINST ANY TAX
23 LIABILITY UNDER SUBSECTION (A).

24 (C) A TAXPAYER IS NOT ENTITLED TO CARRY BACK[,] OR OBTAIN A
25 REFUND OF [OR ASSIGN] AN UNUSED RESEARCH AND DEVELOPMENT TAX
26 CREDIT.

27 (D) A TAXPAYER, UPON APPLICATION TO AND APPROVAL BY THE
28 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, MAY SELL OR
29 ASSIGN, IN WHOLE OR IN PART, A RESEARCH AND DEVELOPMENT TAX
30 CREDIT GRANTED TO THE TAXPAYER UNDER THIS ARTICLE IF NO CLAIM

1 FOR ALLOWANCE OF THE CREDIT HAS BEEN FILED.

2 (E) THE PURCHASER OR ASSIGNEE OF A PORTION OF THE RESEARCH
3 AND DEVELOPMENT TAX CREDIT UNDER SUBSECTION (D) SHALL
4 IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE YEAR IN WHICH THE
5 PURCHASE OR ASSIGNMENT IS MADE. THE PURCHASER OR ASSIGNEE MAY
6 NOT CARRY OVER, CARRY BACK, OBTAIN A REFUND OF OR ASSIGN THE
7 RESEARCH AND DEVELOPMENT TAX CREDIT. THE PURCHASER OR ASSIGNEE
8 SHALL NOTIFY THE DEPARTMENT OF THE DERIVATIVE BASIS OF THE
9 RESEARCH AND DEVELOPMENT TAX CREDIT IN COMPLIANCE WITH
10 PROCEDURES SPECIFIED BY THE DEPARTMENT.

11 Section 1709-B. Limitation on Credits.--(a) The total
12 amount of credits approved by the department shall not exceed
13 [fifteen million dollars (\$15,000,000)] sixty million dollars
14 (\$60,000,000) in any fiscal year. Of that amount, [three million
15 dollars (\$3,000,000)] ~~five million dollars (\$5,000,000)~~ TWELVE
16 MILLION DOLLARS (\$12,000,000) shall be allocated exclusively for
17 small businesses. However, if the total amounts allocated to
18 either the group of applicants exclusive of small businesses or
19 the group of small business applicants is not approved in any
20 fiscal year, the unused portion will become available for use by
21 the other group of qualifying taxpayers.

22 (b) If the total amount of research and development tax
23 credits applied for by all taxpayers, exclusive of small
24 businesses, exceeds the amount allocated for those credits, then
25 the research and development tax credit to be received by each
26 applicant shall be the product of the allocated amount
27 multiplied by the quotient of the research and development tax
28 credit applied for by the applicant divided by the total of all
29 research and development credits applied for by all applicants,
30 the algebraic equivalent of which is:

1 taxpayer's research and development tax credit=amount
2 allocated for those credits X (research and development
3 tax credit applied for by the applicant/total of all
4 research and development tax credits applied for by all
5 applicants).

6 (c) If the total amount of research and development tax
7 credits applied for by all small business taxpayers exceeds the
8 amount allocated for those credits, then the research and
9 development tax credit to be received by each small business
10 applicant shall be the product of the allocated amount
11 multiplied by the quotient of the research and development tax
12 credit applied for by the small business applicant divided by
13 the total of all research and development credits applied for by
14 all small business applicants, the algebraic equivalent of which
15 is:

16 taxpayer's research and development tax credit=amount
17 allocated for those credits X (research and development
18 tax credit applied for by the small business/total of all
19 research and development tax credits applied for by all
20 small business applicants).

21 Section 2. This act shall apply to taxable years beginning
22 after December 31, 2002, AND TO CREDITS APPROVED ON OR AFTER
23 JUNE 30, 2003. <—

24 Section 3. This act shall take effect in 60 days.