

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 2774 Session of  
2006

INTRODUCED BY REED, ALLEN, BAKER, BENNINGHOFF, BOYD, BUNT,  
BUXTON, CALTAGIRONE, CAPPELLI, CAUSER, FAIRCHILD, GINGRICH,  
GODSHALL, KENNEY, MAITLAND, MARKOSEK, R. MILLER, MUSTIO,  
NAILOR, NICKOL, PAYNE, PERZEL, PETRI, PICKETT, QUIGLEY,  
ROBERTS, SAINATO, R. STEVENSON, T. STEVENSON, THOMAS, TURZAI,  
WANSACZ, YOUNGBLOOD, MUNDY, E. Z. TAYLOR, ZUG, GOODMAN,  
CLYMER, TANGRETTI, SAYLOR, GEIST, HASAY, HESS, ADOLPH,  
RAYMOND, DENLINGER AND WILT, JUNE 15, 2006

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
OCTOBER 18, 2006

## 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, in bank and trust company  
11 shares tax, for ascertainment of taxable amount and exclusion  
12 of United States obligations; AND PROVIDING FOR A SMALL  
13 BUSINESS HEALTH CARE TAX CREDIT. <—

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

16 Section 1. Section 701.1 of the act of March 4, 1971 (P.L.6,  
17 No.2), known as the Tax Reform Code of 1971, amended June 16,  
18 1994 (P.L.279, No.48), is amended to read:

19 Section 701.1. Ascertainment of Taxable Amount; Exclusion of  
20 United States Obligations.--(a) The taxable amount of shares

1 shall be ascertained and fixed by adding together the value  
2 determined under subsection (b) for the current and preceding  
3 five years and dividing the resulting sum by six. If an  
4 institution has not been in existence for a period of six years,  
5 the taxable amount of shares shall be ascertained and fixed by  
6 adding together the values determined under subsection (b) for  
7 the number of years the institution has been in existence and  
8 dividing the resulting sum by such number of years.

9 (b) The value for each year required by subsection (a) shall  
10 be determined by adding together the book value of capital stock  
11 paid in, the book value of the surplus and the book value of  
12 undivided profits with a deduction from the total thereof of an  
13 amount equal to the same percentage of such total as the book  
14 value of obligations of the United States bears to the book  
15 value of the total assets[.], except that for shares assessed as  
16 of January 1, 2007, and thereafter, any goodwill recorded as a  
17 result of the use of purchase accounting for an acquisition or  
18 combination as described in this section and occurring after  
19 June 30, 2001, may be disregarded in determining the book value  
20 of total assets and the deduction provided for obligations of  
21 the United States for the six-year period described in  
22 subsection (a). For purposes of this subsection, book values and  
23 deductions for United States obligations for each year shall be  
24 determined by the Reports of Condition for each calendar quarter  
25 of the preceding calendar year in accordance with the  
26 requirements of the Board of Governors of the Federal Reserve  
27 System, the Comptroller of the Currency, the Federal Deposit  
28 Insurance Corporation or other applicable regulatory authority;  
29 and book values shall be averaged as calculated by averaging  
30 book values as determined by such Reports of Condition. For

1 purposes of this article, United States obligations shall be  
2 obligations coming within the scope of 31 U.S.C. § 3124. For any  
3 year in which an institution does not file four quarterly  
4 Reports of Condition, book values and deductions for United  
5 States obligations shall be determined by adding together the  
6 book values and deductions for United States obligations from  
7 each quarterly Reports of Condition filed for such year and  
8 dividing the resulting sums by the number of such Reports of  
9 Condition. In the case of institutions which do not file such  
10 Reports of Condition, book values shall be determined by  
11 generally accepted accounting principles as of the end of each  
12 calendar quarter. For any year in which an institution which  
13 does not file Reports of Condition is not in existence for four  
14 quarters, the book value for that year shall be determined by  
15 adding together the book values for each quarter in which the  
16 institution was in existence and dividing by that number of  
17 quarters. For purposes of this section, a partial year shall be  
18 treated as a full year.

19 (c) For purposes of this section:

20 (1) a mere change in identity, form or place of organization  
21 of one institution, however effected, shall be treated as if a  
22 single institution had been in existence prior to as well as  
23 after such change; and

24 (2) the combination of two or more institutions into one  
25 shall be treated as if the constituent institutions had been a  
26 single institution in existence prior to as well as after the  
27 combination and the book values and deductions for United States  
28 obligations from the Reports of Condition of the constituent  
29 institutions shall be combined. For purposes of [the preceding  
30 sentence] this section, a combination shall include any

1 acquisition required to be accounted for [by the surviving  
2 institution under the pooling of interest method] by using the  
3 purchase method in accordance with generally accepted accounting  
4 principles or a statutory merger or consolidation.

5 SECTION 2. THE ACT IS AMENDED BY ADDING AN ARTICLE TO READ: <—

6 ARTICLE XVII-D

7 SMALL BUSINESS HEALTH CARE TAX CREDIT

8 SECTION 1701-D. SCOPE.

9 THIS ARTICLE RELATES TO HEALTH CARE TAX CREDITS.

10 SECTION 1702-D. DEFINITIONS.

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

14 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

15 "HEALTH CARE BENEFITS." AN ENTITLEMENT PROVIDED TO AN  
16 EMPLOYEE IN ACCORDANCE WITH A WAGE AGREEMENT THAT PROVIDES  
17 PREVENTION, TREATMENT AND MANAGEMENT OF ILLNESS AND THE  
18 PRESERVATION OF MENTAL HEALTH AND PHYSICAL WELL-BEING THROUGH  
19 THE SERVICES OFFERED BY THE MEDICAL AND ALLIED HEALTH  
20 PROFESSIONS.

21 "PASS-THROUGH ENTITY." ANY OF THE FOLLOWING:

22 (1) A PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED  
23 LIABILITY COMPANY, BUSINESS TRUST OR OTHER UNINCORPORATED  
24 ENTITY THAT FOR FEDERAL INCOME TAX PURPOSES IS TAXABLE AS A  
25 PARTNERSHIP.

26 (2) A PENNSYLVANIA S CORPORATION.

27 "QUALIFIED TAX LIABILITY." THE LIABILITY FOR TAXES IMPOSED  
28 UNDER ARTICLE III, IV OR VI. THE TERM SHALL INCLUDE THE  
29 LIABILITY FOR TAXES IMPOSED UNDER ARTICLE III ON AN OWNER OF A  
30 PASS-THROUGH ENTITY.

1 "SECRETARY." THE SECRETARY OF REVENUE OF THE COMMONWEALTH.

2 "SMALL BUSINESS." AN EMPLOYER WHO, ON AT LEAST 50% OF ITS  
3 WORKING DAYS DURING THE TAXABLE YEAR, EMPLOYED NO MORE THAN 100  
4 EMPLOYEES.

5 "TAX CREDIT." THE SMALL BUSINESS HEALTH CARE TAX CREDIT  
6 AUTHORIZED UNDER THIS ARTICLE.

7 "TAXPAYER." AN ENTITY SUBJECT TO TAX UNDER ARTICLE III, IV  
8 OR VI. THE TERM SHALL INCLUDE THE SHAREHOLDER, OWNER OR MEMBER  
9 OF A PASS-THROUGH ENTITY THAT RECEIVES A TAX CREDIT.

10 SECTION 1703-D. CREDIT FOR SMALL BUSINESS HEALTH CARE.

11 (A) APPLICATION.--A TAXPAYER WHO IS A SMALL BUSINESS AND  
12 PROVIDES HEALTH CARE BENEFITS IN A TAXABLE YEAR MAY APPLY FOR A  
13 TAX CREDIT AS PROVIDED IN THIS ARTICLE. BY SEPTEMBER 15, A  
14 TAXPAYER MUST SUBMIT AN APPLICATION TO THE DEPARTMENT FOR HEALTH  
15 CARE BENEFITS INCURRED IN THE TAXABLE YEAR THAT ENDED IN THE  
16 PRIOR CALENDAR YEAR.

17 (B) AMOUNT.--A TAXPAYER THAT IS QUALIFIED UNDER SUBSECTION  
18 (A) SHALL RECEIVE A TAX CREDIT FOR THE TAXABLE YEAR IN THE  
19 AMOUNT EQUAL TO 50% OF THE AMOUNT OF EXPENSES INCURRED BY A  
20 SMALL BUSINESS FOR PROVIDING HEALTH CARE BENEFITS TO ITS  
21 EMPLOYEES, BUT NO MORE THAN \$1,000 PER EMPLOYEE RECEIVING HEALTH  
22 CARE BENEFITS.

23 (C) NOTIFICATION.--BY DECEMBER 15 OF THE CALENDAR YEAR  
24 FOLLOWING THE CLOSE OF THE TAXABLE YEAR DURING WHICH THE HEALTH  
25 CARE EXPENSE WAS INCURRED BY THE SMALL BUSINESS, THE DEPARTMENT  
26 SHALL NOTIFY THE TAXPAYER OF THE AMOUNT OF THE TAXPAYER'S TAX  
27 CREDIT APPROVED BY THE DEPARTMENT.

28 SECTION 1704-D. CARRYOVER, CARRYBACK, REFUND AND ASSIGNMENT OF  
29 CREDIT.

30 (A) CARRYOVER.--IF THE TAXPAYER CANNOT USE THE ENTIRE AMOUNT

1 OF THE TAX CREDIT FOR THE TAXABLE YEAR IN WHICH THE TAX CREDIT  
2 IS FIRST APPROVED, THEN THE EXCESS MAY BE CARRIED OVER TO  
3 SUCCEEDING TAXABLE YEARS AND USED AS A CREDIT AGAINST THE  
4 QUALIFIED TAX LIABILITY OF THE TAXPAYER FOR THOSE TAXABLE YEARS.  
5 EACH TIME THAT THE TAX CREDIT IS CARRIED OVER TO A SUCCEEDING  
6 TAXABLE YEAR, IT IS TO BE REDUCED BY THE AMOUNT THAT WAS USED AS  
7 A CREDIT DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE TAX  
8 CREDIT MAY BE CARRIED OVER AND APPLIED TO SUCCEEDING TAXABLE  
9 YEARS FOR NO MORE THAN 15 TAXABLE YEARS FOLLOWING THE FIRST  
10 TAXABLE YEAR FOR WHICH THE TAXPAYER WAS ENTITLED TO CLAIM THE  
11 CREDIT.

12 (B) APPLICATION.--A TAX CREDIT APPROVED BY THE DEPARTMENT  
13 FOR SMALL BUSINESS HEALTH CARE TAX CREDIT IN A TAXABLE YEAR  
14 FIRST SHALL BE APPLIED AGAINST THE TAXPAYER'S QUALIFIED TAX  
15 LIABILITY FOR THE CURRENT TAXABLE YEAR AS OF THE DATE ON WHICH  
16 THE CREDIT WAS APPROVED BEFORE THE TAX CREDIT IS APPLIED AGAINST  
17 ANY TAX LIABILITY UNDER SUBSECTION (A).

18 (C) UNUSED CREDIT.--A TAXPAYER IS NOT ENTITLED TO ASSIGN,  
19 CARRY BACK OR OBTAIN A REFUND OF AN UNUSED TAX CREDIT.

20 SECTION 1705-D. SHAREHOLDER, OWNER OR MEMBER PASS-THROUGH.

21 (A) SHAREHOLDER CREDIT.--IF A PENNSYLVANIA S CORPORATION  
22 DOES NOT HAVE AN ELIGIBLE TAX LIABILITY AGAINST WHICH THE TAX  
23 CREDIT MAY BE APPLIED, A SHAREHOLDER OF THE PENNSYLVANIA S  
24 CORPORATION IS ENTITLED TO A TAX CREDIT EQUAL TO THE TAX CREDIT  
25 DETERMINED FOR THE PENNSYLVANIA S CORPORATION FOR THE TAXABLE  
26 YEAR MULTIPLIED BY THE PERCENTAGE OF THE PENNSYLVANIA S  
27 CORPORATION'S DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER IS  
28 ENTITLED.

29 (B) PASS-THROUGH ENTITY CREDIT.--IF A PASS-THROUGH ENTITY  
30 OTHER THAN A PENNSYLVANIA S CORPORATION DOES NOT HAVE AN

1 ELIGIBLE TAX LIABILITY AGAINST WHICH THE TAX CREDIT MAY BE  
2 APPLIED, AN OWNER OR MEMBER OF THE PASS-THROUGH ENTITY IS  
3 ENTITLED TO A TAX CREDIT EQUAL TO THE TAX CREDIT DETERMINED FOR  
4 THE PASS-THROUGH ENTITY FOR THE TAXABLE YEAR MULTIPLIED BY THE  
5 PERCENTAGE OF THE PASS-THROUGH ENTITIES' DISTRIBUTIVE INCOME TO  
6 WHICH THE OWNER OR MEMBER IS ENTITLED.

7 (C) ADDITIONAL CREDIT.--THE CREDIT PROVIDED UNDER SUBSECTION  
8 (A) OR (B) IS IN ADDITION TO ANY TAX CREDIT TO WHICH A  
9 SHAREHOLDER, OWNER OR MEMBER OF A PASS-THROUGH ENTITY IS  
10 OTHERWISE ENTITLED UNDER THIS ARTICLE. HOWEVER, A PASS-THROUGH  
11 ENTITY AND A SHAREHOLDER, OWNER OR MEMBER OF A PASS-THROUGH  
12 ENTITY MAY NOT CLAIM A CREDIT UNDER THIS ARTICLE FOR THE SAME  
13 SMALL BUSINESS HEALTH CARE TAX CREDIT.

14 SECTION 1706-D. REPORT TO GENERAL ASSEMBLY.

15 THE SECRETARY SHALL SUBMIT AN ANNUAL REPORT TO THE GENERAL  
16 ASSEMBLY INDICATING THE EFFECTIVENESS OF THE CREDIT PROVIDED BY  
17 THIS ARTICLE NO LATER THAN MARCH 15 FOLLOWING THE YEAR IN WHICH  
18 THE CREDITS WERE APPROVED. THE REPORT SHALL INCLUDE THE NAMES OF  
19 ALL TAXPAYERS UTILIZING THE CREDIT AS OF THE DATE OF THE REPORT  
20 AND THE AMOUNT OF CREDITS APPROVED AND UTILIZED BY EACH  
21 TAXPAYER. NOTWITHSTANDING ANY LAW PROVIDING FOR THE  
22 CONFIDENTIALITY OF TAX RECORDS, THE INFORMATION CONTAINED IN THE  
23 REPORT SHALL BE PUBLIC INFORMATION. THE REPORT MAY ALSO INCLUDE  
24 ANY RECOMMENDATIONS FOR CHANGES IN THE CALCULATION OR  
25 ADMINISTRATION OF THE CREDIT.

26 SECTION 1707-D. REGULATIONS.

27 THE SECRETARY SHALL PROMULGATE REGULATIONS NECESSARY FOR THE  
28 IMPLEMENTATION AND ADMINISTRATION OF THIS ARTICLE.

29 SECTION 3. THE ADDITION OF ARTICLE XVII-D OF THE ACT SHALL  
30 APPLY TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006.

1       Section ~~2~~ 4.   This act shall take effect in 60 days or  
2   December 31, 2006, whichever is sooner.

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