

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2997 Session of  
2006

INTRODUCED BY BEYER, MANN, REICHLEY, DALLY, HARHART, FREEMAN,  
SAMUELSON, SEMMEL, ROONEY, GABIG, ADOLPH, ALLEN, ARGALL,  
BOYD, CALTAGIRONE, CAPPELLI, CORNELL, CRAHALLA, DALEY,  
DeWEESE, EACHUS, ELLIS, FABRIZIO, FICHTER, FLEAGLE, FORCIER,  
GERGELY, GINGRICH, GRUCELA, HARPER, HENNESSEY, HERSHEY,  
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McILHINNEY, MELIO, NAILOR, NICKOL, O'BRIEN, PETRI, PHILLIPS,  
QUIGLEY, RAYMOND, READSHAW, REED, ROHRER, ROSS, RUBLEY,  
SABATINA, SAINATO, SCAVELLO, SCHRODER, SIPTROTH, B. SMITH,  
SONNEY, STERN, T. STEVENSON, TANGRETTI, J. TAYLOR, THOMAS,  
TURZAI, VITALI, WHEATLEY, WILT AND LEACH, OCTOBER 5, 2006

REFERRED TO COMMITTEE ON INSURANCE, OCTOBER 5, 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," providing for a tax credit for new diesel  
11 technology.

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-D

NEW DIESEL TECHNOLOGY TAX CREDIT

1 Section 1701-D. Scope of article.

2 This article relates to new diesel technology tax credits.

3 Section 1702-D. Definitions.

4 The following words and phrases when used in this article  
5 shall have the meanings given to them in this section unless the  
6 context clearly indicates otherwise:

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

8 "Pass-through entity." Any of the following:

9 (1) A partnership, limited partnership, limited  
10 liability company, business trust or other unincorporated  
11 entity that for Federal income tax purposes is taxable as a  
12 partnership.

13 (2) A Pennsylvania S corporation.

14 "Qualified new diesel technology expenses." The cost  
15 incurred for the purchase of a Class 8 highway vehicle with a  
16 registered gross or combination weight as provided under 75  
17 Pa.C.S. § 1916 (relating to trucks and truck tractors) and with  
18 a diesel engine if the vehicle purchased has been certified as  
19 compliant with the emissions limits contained in 40 C.F.R. §  
20 86.007-11, except that 40 C.F.R. § 86.007-15 shall not apply to  
21 exhaust emissions attainment levels for particulates.

22 "Qualified tax liability." The liability for taxes imposed  
23 under Article III, IV or VI. The term shall include the  
24 liability for taxes imposed under Article III on an owner of a  
25 pass-through entity.

26 "Secretary." The Secretary of Revenue of the Commonwealth.

27 "Tax credit." The new diesel technology tax credit  
28 authorized under this article.

29 "Taxpayer." An entity subject to tax under Article III, IV  
30 or VI. The term shall include the shareholder, owner or member

1 of a pass-through entity that receives a tax credit.

2 Section 1703-D. Credit for new diesel technology.

3 (a) Application.--A taxpayer who incurs a qualified new  
4 diesel technology expense in a taxable year may apply for a tax  
5 credit as provided in this article. By September 15, a taxpayer  
6 must submit an application to the department for qualified new  
7 diesel technology expenses incurred in the taxable year that  
8 ended in the prior calendar year.

9 (b) Amount.--A taxpayer that is qualified under subsection  
10 (a) shall receive a tax credit for the taxable year in the  
11 amount of \$5,000 per qualified new diesel technology expense.

12 (c) Notification.--By December 15 of the calendar year  
13 following the close of the taxable year during which qualified  
14 new diesel technology expense was incurred, the department shall  
15 notify the taxpayer of the amount of the taxpayer's tax credit  
16 approved by the department.

17 Section 1704-D. Carryover, carryback, refund and assignment of  
18 credit.

19 (a) Carryover.--If the taxpayer cannot use the entire amount  
20 of the tax credit for the taxable year in which the tax credit  
21 is first approved, the excess may be carried over to succeeding  
22 taxable years and used as a credit against the qualified tax  
23 liability of the taxpayer for those taxable years. Each time  
24 that the tax credit is carried over to a succeeding taxable  
25 year, it shall be reduced by the amount that was used as a  
26 credit during the immediately preceding taxable year. The tax  
27 credit may be carried over and applied to succeeding taxable  
28 years for no more than 15 taxable years following the first  
29 taxable year for which the taxpayer was entitled to claim the  
30 credit.

1     (b) Application.--A tax credit approved by the department  
2     for qualified new diesel technology expenses in a taxable year  
3     first shall be applied against the taxpayer's qualified tax  
4     liability for the current taxable year as of the date on which  
5     the credit was approved before the tax credit is applied against  
6     any tax liability under subsection (a).

7     (c) Unused credit.--A taxpayer is not entitled to assign,  
8     carry back or obtain a refund of an unused tax credit.

9     Section 1705-D. Time limitations.

10     A taxpayer is not entitled to a tax credit for qualified new  
11     diesel technology expenses incurred in taxable years ending  
12     after December 31, 2008.

13     Section 1706-D. Shareholder, owner or member pass-through.

14     (a) Pennsylvania S corporations.--If a Pennsylvania S  
15     corporation does not have an eligible tax liability against  
16     which the tax credit may be applied, a shareholder of the  
17     Pennsylvania S corporation is entitled to a tax credit equal to  
18     the tax credit determined for the Pennsylvania S corporation for  
19     the taxable year multiplied by the percentage of the  
20     Pennsylvania S corporation's distributive income to which the  
21     shareholder is entitled under this article.

22     (b) Pass-through entities.--If a pass-through entity other  
23     than a Pennsylvania S corporation does not have an eligible tax  
24     liability against which the tax credit may be applied, an owner  
25     or member of the pass-through entity is entitled to a tax credit  
26     equal to the tax credit determined for the pass-through entity  
27     for the taxable year multiplied by the percentage of the pass-  
28     through entities' distributive income to which the owner or  
29     member is entitled under this article.

30     (c) Additional credits.--The credit provided under

1 subsection (a) or (b) shall be in addition to any tax credit to  
2 which a shareholder, owner or member of a pass-through entity is  
3 otherwise entitled under this article. However, a pass-through  
4 entity and a shareholder, owner or member of a pass-through  
5 entity may not claim a credit under this article for the same  
6 qualified new diesel technology expense.

7 Section 1707-D. Report to General Assembly.

8 The secretary shall submit an annual report to the General  
9 Assembly indicating the effectiveness of the credit provided by  
10 this article no later than March 15 following the year in which  
11 the credits were approved. The report shall include the names of  
12 all taxpayers utilizing the credit as of the date of the report  
13 and the amount of credits approved and utilized by each  
14 taxpayer. Notwithstanding any law providing for the  
15 confidentiality of tax records, the information contained in the  
16 report shall be public information. The report may also include  
17 any recommendations for changes in the calculation or  
18 administration of the credit.

19 Section 1708-D. Termination.

20 The department shall not approve a tax credit under this  
21 article for taxable years ending after December 31, 2008.

22 Section 1709-D. Regulations.

23 The secretary shall promulgate regulations necessary for the  
24 implementation and administration of this article.

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