

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 979 Session of
2007

INTRODUCED BY YUDICHAK, CAPPELLI, M. O'BRIEN, CARROLL, BAKER,
BARRAR, BELFANTI, BENNINGTON, BOYD, CALTAGIRONE, CURRY,
CUTLER, DeLUCA, DePASQUALE, EVERETT, FREEMAN, GEORGE, HANNA,
HERSHEY, HESS, HUTCHINSON, JOSEPHS, W. KELLER, KILLION,
KOTIK, MAHONEY, MANN, McILHATTAN, MYERS, PETRARCA, PETRONE,
PICKETT, PYLE, READSHAW, REICHLEY, SABATINA, SANTONI, SAYLOR,
SCAVELLO, SOLOBAY, STABACK, R. STEVENSON, SURRA, WALKO,
FABRIZIO AND HENNESSEY, MARCH 29, 2007

REFERRED TO COMMITTEE ON FINANCE, MARCH 29, 2007

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 small business health care tax
11 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:

ARTICLE XVII-D

SMALL BUSINESS HEALTH CARE TAX CREDIT

19 Section 1701-D. Scope.

1 This article relates to health care tax credits.

2 Section 1702-D. Definitions.

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

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

7 "Health care benefits." An entitlement provided to an
8 employee in accordance with a wage agreement that provides
9 prevention, treatment and management of illness and the
10 preservation of mental health and physical well-being through
11 the services offered by the medical and allied health
12 professions.

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

14 (1) A partnership, limited partnership, limited
15 liability company, business trust or other unincorporated
16 entity that for Federal income tax purposes is taxable as a
17 partnership.

18 (2) A Pennsylvania S corporation.

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

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

24 "Small business." An employer who, on at least 50% of its
25 working days during the taxable year, employed no more than 100
26 employees.

27 "Tax credit." The small business health care 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 small business health care.

3 (a) Application.--A taxpayer who is a small business and
4 provides health care benefits in a taxable year may apply for a
5 tax credit as provided in this article. By September 15, a
6 taxpayer must submit an application to the department for health
7 care benefits incurred in the taxable year that ended in the
8 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 equal to 50% of the amount of expenses incurred by a
12 small business for providing health care benefits to its
13 employees, but no more than \$1,000 per employee receiving health
14 care benefits.

15 (c) Notification.--By December 15 of the calendar year
16 following the close of the taxable year during which the health
17 care expense was incurred by the small business, the department
18 shall notify the taxpayer of the amount of the taxpayer's tax
19 credit approved by the department.

20 Section 1704-D. Carryover, carryback, refund and assignment of
21 credit.

22 (a) Carryover.--If the taxpayer cannot use the entire amount
23 of the tax credit for the taxable year in which the tax credit
24 is first approved, then the excess may be carried over to
25 succeeding taxable years and used as a credit against the
26 qualified tax liability of the taxpayer for those taxable years.
27 Each time that the tax credit is carried over to a succeeding
28 taxable year, it is to be reduced by the amount that was used as
29 a credit during the immediately preceding taxable year. The tax
30 credit may be carried over and applied to succeeding taxable

years for no more than 15 taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(b) Application.--A tax credit approved by the department for small business health care tax credit in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was approved before the tax credit is applied against any tax liability under subsection (a).

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

Section 1705-D. Shareholder, owner or member pass-through.

(a) Shareholder credit.--If a Pennsylvania S corporation does not have an eligible tax liability against which the tax credit may be applied, a shareholder of the Pennsylvania S corporation is entitled to a tax credit equal to the tax credit determined for the Pennsylvania S corporation for the taxable year multiplied by the percentage of the Pennsylvania S corporation's distributive income to which the shareholder is entitled.

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

(c) Additional credit.--The credit provided under subsection (a) or (b) is in addition to any tax credit to which a

1 shareholder, owner or member of a pass-through entity is
2 otherwise entitled under this article. However, a pass-through
3 entity and a shareholder, owner or member of a pass-through
4 entity may not claim a credit under this article for the same
5 small business health care tax credit.

6 Section 1706-D. Report to General Assembly.

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

18 Section 1707-D. Regulations.

19 The secretary shall promulgate regulations necessary for the
20 implementation and administration of this article.

21 Section 2. This act shall apply to taxable years beginning
22 after December 31, 2007.

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