

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 565 Session of 2009

INTRODUCED BY BEYER, BARRAR, BOBACK, BOYD, BRENNAN, BROOKS, CALTAGIRONE, CRUZ, FAIRCHILD, FLECK, GEIST, GROVE, HARHART, HARKINS, HENNESSEY, HUTCHINSON, KAUFFMAN, KILLION, KORTZ, LONGIETTI, MANN, MURT, M. O'BRIEN, PETRARCA, PICKETT, REICHLEY, SCAVELLO, SIPTROTH, K. SMITH, STERN, STEVENSON, THOMAS, TURZAI, VULAKOVICH AND YOUNGBLOOD, FEBRUARY 23, 2009

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 23, 2009

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-F

NEW DIESEL TECHNOLOGY TAX CREDIT

19 Section 1701-F. Scope of article.

20 This article relates to new diesel technology tax credits.

1 Section 1702-F. Definitions.

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

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

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

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

11 (2) A Pennsylvania S corporation.

12 "Qualified new diesel technology expenses." The cost
13 incurred for the purchase of a Class 8 highway vehicle with a
14 registered gross or combination weight as provided under 75
15 Pa.C.S. § 1916 (relating to trucks and truck tractors) and with
16 a diesel engine if the vehicle purchased has been certified as
17 compliant with the emissions limits contained in 40 C.F.R. §
18 86.007-11 (relating to emission standards and supplemental
19 requirements for 2007 and later model year diesel heavy-duty
20 engines and vehicles), except that 40 C.F.R. § 86.007-15
21 (relating to NOX and particulate averaging, trading, and banking
22 for heavy-duty engines) shall not apply to exhaust emissions
23 attainment levels for particulates.

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

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

29 "Tax credit." The new diesel technology tax credit
30 authorized under this article.

1 "Taxpayer." An entity subject to tax under Article III, IV
2 or VI. The term shall include the shareholder, owner or member
3 of a pass-through entity that receives a tax credit.

4 Section 1703-F. Credit for new diesel technology.

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

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

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

19 Section 1704-F. Carryover, carryback, refund and assignment of
20 credit.

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

1 taxable year for which the taxpayer was entitled to claim the
2 credit.

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

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

11 Section 1705-F. Time limitations.

12 A taxpayer is not entitled to a tax credit for qualified new
13 diesel technology expenses incurred in taxable years ending
14 after December 31, 2010.

15 Section 1706-F. Shareholder, owner or member pass-through.

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

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

1 member is entitled under this article.

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

9 Section 1707-F. Report to General Assembly.

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

20 Section 1708-F. Termination.

21 The department shall not approve a tax credit under this
22 article for taxable years ending after December 31, 2010.

23 Section 1709-F. Regulations.

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

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