

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1276 Session of
2015

INTRODUCED BY HAYWOOD, FARNESE, TEPLITZ, FONTANA, SCHWANK AND
COSTA, MAY 26, 2016

REFERRED TO FINANCE, MAY 26, 2016

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 youth employment incentive 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:

17 ARTICLE XVII-J

18 YOUTH EMPLOYMENT INCENTIVE TAX CREDIT

19 Section 1701-J. Scope of article.

20 This article relates to youth employment incentive tax
21 credits.

22 Section 1702-J. Definitions.

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

"Department." The Department of Community and Economic Development of the Commonwealth.

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

(1) A partnership as defined in section 301(n.0).

(2) A Pennsylvania S corporation, as defined in section 301(n.1).

"Qualified tax liability." The liability for taxes imposed under Article III, IV or VI. The term does not include any tax withheld by an employer from an employee under Article III.

"Qualified youth employee." A Pennsylvania resident individual between 16 and 23 years of age whose median family income does not exceed 235% of the Federal poverty level consistent with Temporary Assistance for Needy Families grants that serve purposes similar to those of this article. The term shall not make a distinction based on education.

"Qualified youth employment expense." Wages, fringe benefits, related payroll and training expenses, and other ancillary expenses paid by a taxpayer to or for the benefit of a qualified youth employee, provided that any ancillary expenses not enumerated in this definition are identified in the taxpayer's application and approved by the department. The term includes those expenses paid by a taxpayer to another taxpayer or nonprofit corporation for the purpose of sponsoring a qualified youth employee, provided that the terms of the sponsorship are identified in the taxpayer's application and approved by the department and the local work force investment board. All qualified youth employment expenses incurred in a

taxable year shall be combined and treated as one qualified youth employment expense for purposes of this article.

"Secretary." The Secretary of Community and Economic Development of the Commonwealth.

"Tax credit." The Youth Employment Incentive Tax Credit authorized under this article.

"Taxpayer." An entity subject to tax under Article III, IV or VI or an entity that assigns credits to such entity in accordance with section 1704-J.

Section 1703-J. Credit for qualified youth employment expense.

(a) Application.--

(1) A taxpayer who incurs a qualified youth employment expense in a taxable year may apply for a tax credit as provided in this article. A taxpayer must submit a youth employment incentive tax credit application to its local work force investment board.

(2) Each local work force investment board:

(i) Shall make a threshold determination as to whether the application is consistent with its determined criteria.

(ii) Shall submit applications that meet the threshold criteria to the department for its review.

(iii) May establish guidelines to fulfill its duties under this subsection.

(3) The department shall establish guidelines for the review and approval of applications under this subsection and shall approve applications on a first-come, first-served basis.

(4) Nothing in this subsection may be construed to prevent a taxpayer from applying for a multiyear tax credit

1 for those qualified youth employment expenses lasting longer
2 than one taxable year, but for no more than three taxable
3 years.

4 (b) Receipt.--If the department approves the taxpayer's
5 application, the taxpayer and department shall execute a
6 commitment letter containing the following:

7 (1) A description of the project.
8 (2) The number of new jobs to be created.
9 (3) The maximum tax credit amount the taxpayer may
10 claim.

11 (4) A signed statement that the taxpayer intends to
12 maintain its operation in this Commonwealth for five years
13 from the start date.

14 (5) Other information the department deems appropriate.

15 (c) Commitment letter.--After a commitment letter has been
16 signed by both the Commonwealth and the taxpayer, the taxpayer
17 shall receive a tax credit certificate and filing information.

18 (d) Amount.--A taxpayer shall receive a tax credit for the
19 taxable year in the amount of 35% of the taxpayer's total
20 qualified youth employment expense for the taxable year or \$1500
21 for each qualified youth employee, whichever is less.

22 (e) Finality of department decision.--The decision of the
23 department on an application filed under this section is final
24 and not subject to review or appeal.

25 Section 1704-J. Carryover, carryback, refund and assignment of
26 credit.

27 (a) Carryover.--If the taxpayer cannot use the entire amount
28 of the tax credit for the taxable year in which the tax credit
29 is first approved, then the excess may be carried over to
30 succeeding taxable years and used as a credit against the

qualified tax liability of the taxpayer for those taxable years.
Each time that the tax credit is carried over to a succeeding
taxable year, it is to be reduced by the amount that was used as
a credit during the immediately preceding taxable year. The tax
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 a qualified youth employment expense 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 it is applied against any tax liability
under subsection (a).

(c) Prohibition.--A taxpayer may not carry back or obtain a
refund of an unused tax credit.

(d) Sale or assignment.--A taxpayer, upon application to and
approval by the department, may sell or assign, in whole or in
part, a tax credit granted to the taxpayer under this article if
no claim for allowance of the credit is filed from the date the
credit is approved by the department under section 1703-J. The
department and the Department of Revenue shall jointly
promulgate regulations for the approval of applications under
this subsection. Before an application is approved, the
Department of Revenue must make a finding that the applicant has
filed all required State tax reports and returns for all
applicable taxable years and paid any balance of State tax due.

(e) Claim and use.--The purchaser or assignee of a portion
of a tax credit under subsection (d) shall immediately claim the
credit in the taxable year in which the purchase or assignment

1 is made. The amount of the tax credit that a purchaser or
2 assignee may use against any one qualified tax liability may not
3 exceed 75% of the qualified tax liability for the taxable year.
4 The purchaser or assignee may not carry back, obtain a refund of
5 or assign the tax credit.

6 Section 1705-J. Time limitations.

7 Except as provided in section 1704-J(a), a taxpayer is not
8 entitled to a tax credit for qualified youth employment expenses
9 incurred in taxable years ending after December 31, 2020.

10 Section 1706-J. Limitation on credits.

11 The total amount of tax credits approved by the department
12 shall not exceed \$15,000,000 in any fiscal year.

13 Section 1707-J. Pass-through entities.

14 (a) Pass-through entity.--If a pass-through entity has any
15 unused tax credit under subsection (c), it may elect in writing,
16 according to procedures established by the Department of
17 Revenue, to transfer all or a portion of the credit to
18 shareholders, members or partners in proportion to the share of
19 the entity's distributive income to which the shareholder,
20 member or partner is entitled.

21 (b) Credit utilization.--The credit provided under
22 subsection (a) is in addition to any tax credit to which a
23 shareholder, member or partner of a pass-through entity is
24 otherwise entitled under this article. A pass-through entity and
25 a shareholder, member or partner of a pass-through entity may
26 not claim a credit under this article for the same qualified
27 youth employment expense.

28 (c) Application.--A shareholder, member or partner of a
29 pass-through entity to whom a credit is transferred under
30 subsection (a) shall immediately claim the credit in the taxable

1 year in which the transfer is made. The shareholder, member or
2 partner may not carry forward, carry back, obtain a refund of or
3 sell or assign the credit.

4 Section 1708-J. Termination.

5 Except for carryovers of previously awarded tax credits, the
6 department shall not approve a tax credit under this article for
7 taxable years ending after December 31, 2020.

8 Section 1709-J. Regulations.

9 The secretary shall promulgate regulations necessary for the
10 implementation and administration of this article.

11 Section 2. The addition of Article XVII-J of the act shall
12 apply to taxable years beginning after December 31, 2016.

13 Section 3. This act shall take effect immediately.