
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1820 Session of
2017

INTRODUCED BY YOUNGBLOOD, HANNA, O'BRIEN, MURT, THOMAS,
DRISCOLL, READSHAW AND ROZZI, SEPTEMBER 26, 2017

REFERRED TO COMMITTEE ON FINANCE, SEPTEMBER 26, 2017

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 community diaper and incontinence
11 product tax 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-L

18 COMMUNITY DIAPER AND INCONTINENCE

19 PRODUCT TAX CREDIT

20 Section 1701-L. Scope of article.

21 This article establishes the community diaper and
22 incontinence product tax credit.

1 Section 1702-L. 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 "Business firm." An entity authorized to do business in this
6 Commonwealth and subject to taxes imposed under Article III, IV,
7 VI, VII, VIII, IX or XV or the tax under Article XVI of the act
8 of May 17, 1921 (P.L.682, No.284), known as The Insurance
9 Company Law of 1921. The term includes a pass-through entity.

10 "Contribution." A donation of cash or personal property made
11 under this article.

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

14 "Diaper bank." A nonprofit charitable organization or a
15 fiscally sponsored project of a nonprofit charitable
16 organization that collects or purchases diapers and other
17 hygiene products for infants, children or incontinent adults and
18 regularly distributes diapers over an extended period through
19 two or more partner agencies for eventual distribution to
20 individuals free of charge.

21 "Diaper pantry." A nonprofit charitable organization or a
22 fiscally sponsored project of a nonprofit charitable
23 organization that collects or purchases diapers for the purpose
24 of regularly distributing the diapers directly to individuals
25 free of charge.

26 "Diaper program." A program within a nonprofit charitable
27 organization or a fiscally sponsored project of a nonprofit
28 charitable organization, including, but not limited to, a food
29 bank, service agency or health clinic that collects or purchases
30 diapers and regularly distributes the diapers either through a

1 direct service free of charge or through two or more partner
2 agencies for eventual distribution to individuals free of
3 charge.

4 "Eligible organization." An organization that meets the
5 criteria under section 1704-L(a).

6 "Nonprofit charitable organization." A nonprofit
7 organization under section 501(c)(3) of the Internal Revenue
8 Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)).

9 "Pass-through entity." A partnership as defined in section
10 301(n.0), a single-member limited liability company treated as a
11 disregarded entity for Federal income tax purposes or a
12 Pennsylvania S corporation as defined in section 301(n.1).

13 "Program." The Community Diaper and Incontinence Product Tax
14 Credit Program.

15 Section 1703-L. Community Diaper and Incontinence Product Tax
16 Credit Program.

17 The department shall establish the Community Diaper and
18 Incontinence Product Tax Credit Program for the following
19 purposes:

20 (1) Encouraging private investment for services that
21 expand access to diapers and incontinence products in order
22 to protect the health and well-being of infants, children and
23 incontinent adults who reside in this Commonwealth.

24 (2) Encouraging contributions from business firms for
25 diaper banks, diaper pantries and diaper programs in order to
26 protect infants, children and incontinent adults who reside
27 in this Commonwealth from health problems associated with a
28 lack of diapers and incontinence products.

29 (3) Removing obstacles that prevent individuals in this
30 Commonwealth from maintaining employment due to a lack of

1 supply of diapers and other related products.

2 Section 1704-L. Program qualifications.

3 (a) Qualifications.--A diaper bank, diaper pantry or diaper
4 program located within this Commonwealth shall be eligible to
5 receive contributions under the program if the diaper bank,
6 diaper pantry or diaper program:

7 (1) has a budget approved by the board of directors or
8 other entity associated with the diaper bank, diaper pantry
9 or diaper program;

10 (2) does not require participation in religious,
11 financial or organizational activities for the receipt of the
12 diapers;

13 (3) submits information to the department that enables
14 the department to confirm that the organization is exempt
15 from Federal taxation as a nonprofit charitable organization;
16 and

17 (4) certifies to the department, on a form provided by
18 the department, that the diaper bank, diaper pantry or diaper
19 program meets the requirements under this subsection.

20 (b) Forms.--Upon request by a diaper bank, diaper pantry, or
21 diaper program, the department shall provide a form as specified
22 under subsection (a) (4) to the diaper bank, diaper pantry or
23 diaper program no later than May 1 of each year.

24 (c) Additional information.--The department may not require
25 additional information from an eligible organization exceeding
26 the required information under subsection (a).

27 (d) Notice.--The department shall notify a diaper bank,
28 diaper pantry or diaper program as to whether or not the diaper
29 bank, diaper pantry or diaper program meets the requirements to
30 receive contributions under the program no later than 60 days

1 after the diaper bank, diaper pantry or diaper program has
2 submitted the information required under subsection (a).

3 (e) List of eligible organizations.--The department shall
4 submit a list of eligible organizations each year to the
5 Legislative Reference Bureau for publication in the Pennsylvania
6 Bulletin. The department shall post and update the list of
7 eligible organizations as necessary on the department's publicly
8 accessible Internet website.

9 (f) Outreach.--The department may collaborate with other
10 State agencies to provide information about the program to
11 diaper banks, diaper pantries and diaper programs throughout
12 this Commonwealth.

13 Section 1705-L. Contribution requirements.

14 (a) Contributions.--To qualify for a tax credit under the
15 program, an individual or a business firm must make a
16 contribution for the following purposes:

17 (1) Direct collection and distribution of diapers.

18 (2) Warehousing, shelving and storing of collected
19 diapers.

20 (3) Collecting bins, volunteer training or other
21 promotional and marketing programs and materials relating to
22 the eligible organization.

23 (4) Mobile diaper banks, partnerships with child-care
24 centers serving low-income families, partnerships with senior
25 centers serving senior citizens or other similar entities.

26 (5) Fundraising assistance or other financial management
27 programs relating to the eligible organization.

28 (6) Establishing new diaper banks, diaper pantries or
29 diaper programs in underserved areas of this Commonwealth.

30 (7) Any other program or activity approved by the

1 department that improves, enhances or expands access to clean
2 diapers for infants, children and incontinent adults residing
3 in this Commonwealth.

4 Section 1706-L. Application for tax credit.

5 (a) Application.--An individual or a business firm must
6 apply to the department to receive a tax credit under the
7 program.

8 (b) Deadlines.--The following shall apply:

9 (1) Except as otherwise provided in paragraph (2), the
10 department may accept applications for tax credits under the
11 program not earlier than July 1 of each fiscal year.

12 (2) An application submitted by an individual or
13 business firm as part of the second year of a two-year
14 commitment or as a renewal of a two-year commitment which was
15 fulfilled in the previous fiscal year may be accepted no
16 earlier than May 15 preceding the start of the fiscal year.

17 (c) Availability of tax credits.--Tax credits under the
18 program shall be made available by the department on a first-
19 come, first-served basis within the limitation established under
20 section 1708-L.

21 (d) Contribution.--A contribution by an individual or
22 business firm shall be made within 60 days after the approval of
23 an application.

24 (e) Compliance.--Before an application is approved, the
25 Department of Revenue must ensure that the applicant has filed
26 all required State tax reports and returns for all applicable
27 tax years and paid the balance of State tax due as determined at
28 settlement, assessment or determination by the Department of
29 Revenue.

30 Section 1707-L. Grant of tax credit and amount.

1 (a) General rule.--In accordance with section 1708-L(a), the
2 Department of Revenue shall grant a tax credit against the tax
3 due under Article III, IV, VI, VII, VIII, IX or XV or under
4 Article XVI of the act of May 17, 1921 (P.L.682, No.284), known
5 as The Insurance Company Law of 1921, to an individual or
6 business firm upon proof of a contribution to an eligible
7 organization in the taxable year in which the contribution is
8 made. The tax credit shall not exceed 55% of the total amount
9 contributed by the individual or business firm during the
10 taxable year.

11 (b) Combination of tax credits.--An eligible organization
12 may receive tax credits in any tax year under subsection (a).

13 (c) Pass-through entities.--The following shall apply:

14 (1) If a pass-through entity does not intend to use all
15 the approved tax credits under the program, the pass-through
16 entity may elect in writing to transfer a portion of the tax
17 credit to the pass-through entity's shareholders, members or
18 partners in proportion to the share of the pass-through
19 entity's distributive income for use:

20 (i) in the taxable year in which the contribution is
21 made; or

22 (ii) in the taxable year immediately after the year
23 in which the contribution is made.

24 (2) The transfer under paragraph (1) shall designate the
25 year in which the credits are to be used and shall be made
26 according to procedures established by the Department of
27 Revenue.

28 (3) A pass-through entity and a shareholder, member or
29 partner of a pass-through entity shall not claim a tax credit
30 under the program for the same contribution.

1 (4) The shareholder, member or partner of a pass-through
2 entity may not carry forward, carry back, obtain a refund of,
3 sell or assign the tax credit.

4 (d) Restriction on credits.--No tax credits granted under
5 the program shall be applied against the tax withheld by an
6 employer from an employee under Article III.
7 Section 1708-L. Limitations.

8 (a) Aggregate amount.--The total aggregate amount of all tax
9 credits under the program shall not exceed \$1,000,000 in any
10 fiscal year.

11 (b) Activities.--No tax credit shall be granted for
12 activities that are a part of the normal course of business of
13 an individual or a business firm.

14 (c) Tax liability.--The following shall apply:

15 (1) Except as provided for in paragraph (2), a tax
16 credit granted under the program for any one taxable year may
17 not exceed the tax liability of an individual or business
18 firm.

19 (2) A tax credit granted for any one taxable year and
20 transferred to a shareholder, member or partner under section
21 1707-L(c) may not exceed the tax liability of the
22 shareholder, member or partner.

23 (d) Use.--A tax credit granted under the program and not
24 used by an individual or a business firm in the taxable year the
25 contribution was made or in the year designated by the
26 shareholder, member or partner to whom the credit was
27 transferred under section 1707-L(c) may not be carried forward
28 or carried back and is not refundable or transferable.

29 Section 1709-L. Annual report and recommendations.

30 (a) Annual report.--The Department of Revenue shall submit

1 an annual report to the General Assembly listing all eligible
2 organizations receiving contributions from individuals and
3 business firms granted tax credits under the program no later
4 than June 30 of each year.

5 (b) Recommendations.--The Department of Revenue shall
6 evaluate the program and make recommendations, if necessary, on
7 changes to the program to improve the effectiveness and
8 utilization of the tax credits in expanding access to clean
9 diapers and incontinence products. Recommendations shall be
10 included in the annual report under subsection (a).

11 Section 2. This act shall take effect in 90 days.