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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1113 Session of  
2020

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INTRODUCED BY BLAKE, HUGHES, FARNESE, COLLETT, FONTANA,  
SANTARSIERO, SCHWANK, BREWSTER, GORDNER, A. WILLIAMS,  
DINNIMAN AND COSTA, APRIL 15, 2020

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REFERRED TO FINANCE, APRIL 15, 2020

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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," in manufacturing and investment tax credit,  
11 providing for personal protective equipment retrofitting tax  
12 credit.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. Article XVIII-G of the act of March 4, 1971  
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended  
17 by adding a part to read:

18 PART III

19 PERSONAL PROTECTIVE EQUIPMENT RETROFITTING TAX CREDIT

20 Section 1841-G. Definitions.

21 The following words and phrases when used in this part shall  
22 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "COVID-19 pandemic of 2020." The outbreak of the novel  
3 coronavirus that was declared a pandemic by the World Health  
4 Organization.

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

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

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

9 (2) A Pennsylvania S corporation as defined in section  
10 301(n.1).

11 (3) An unincorporated entity subject to section 307.21.

12 "Qualified tax liability." A taxpayer's liability for taxes  
13 imposed under Article III, IV, VI, VII, VIII, IX, XI or XV.

14 "Tax credit." The personal protective equipment retrofitting  
15 tax credit provided under this part.

16 "Taxpayer." An owner and operator of a business located in  
17 this Commonwealth that specializes in manufacturing any item  
18 other than personal protective equipment.

19 Section 1842-G. Eligibility.

20 In order to be eligible to receive a personal protective  
21 equipment retrofitting tax credit, a taxpayer must demonstrate  
22 to the department the following:

23 (1) The taxpayer has converted or retrofitted the  
24 taxpayer's existing business facility in order to manufacture  
25 personal protective equipment.

26 (2) The personal protective equipment is to be used for  
27 this Commonwealth's response to the COVID-19 pandemic of  
28 2020.

29 Section 1843-G. Procedure.

30 (a) Application.--A taxpayer applying to claim tax credit

1 must complete and submit to the department a tax credit  
2 application on a form and in a manner as determined by the  
3 department.

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

7 (1) The taxpayer is the owner and operator of the  
8 business.

9 (2) The taxpayer has expended funds to convert or  
10 retrofit the taxpayer's existing business facility in order  
11 to manufacture personal protective equipment.

12 (3) The personal protective equipment is to be used for  
13 this Commonwealth's response to the COVID-19 pandemic of  
14 2020.

15 (4) Any other information the department deems  
16 appropriate.

17 Section 1844-G. Personal protective equipment retrofitting tax  
18 credit.

19 (a) Maximum amount.--The department may award a tax credit  
20 of up to 100% of the taxpayer's costs relating to the converting  
21 or retrofitting of the taxpayer's existing business facility in  
22 order to manufacture personal protective equipment.

23 (b) Applicable taxes.--A taxpayer may apply the tax credit  
24 to 100% of the taxpayer's qualified tax liability.

25 (c) Term.--A taxpayer may claim the tax credit for a period  
26 determined by the department, not to exceed the earlier of:

27 (1) five years from the date the taxpayer receives the  
28 tax credit certificate; or

29 (2) six years from the start date.

30 (d) Availability.--A tax credit shall be made available by

1 the department on a first-come, first-served basis.

2 (e) Limitation.--For the 2020 tax year, \$50,000,000 in tax  
3 credits shall be made available to the department and may be  
4 awarded by the department in accordance with this part.

5 Section 1845-G. Limitations.

6 The following shall apply:

7 (1) If the taxpayer cannot use the entire amount of the  
8 tax credit for the taxable year in which the tax credit is  
9 first approved, the excess may be carried over to succeeding  
10 taxable years and used as a credit against the qualified tax  
11 liability of the taxpayer for the taxable years. Each time  
12 the tax credit is carried over to a succeeding taxable year,  
13 the tax credit shall be reduced by the amount of the tax  
14 credit used as a credit during the immediately preceding  
15 taxable year. The tax credit may be carried over and applied  
16 to succeeding taxable years for no more than three taxable  
17 years following the first taxable year for which the taxpayer  
18 was entitled to claim the credit.

19 (2) A tax credit approved by the department in a taxable  
20 year first shall be applied against the taxpayer's qualified  
21 tax liability for the current taxable year as of the date on  
22 which the credit was approved before the tax credit can be  
23 applied against any tax liability under paragraph (1).

24 (3) A taxpayer shall not be entitled to carry back or  
25 obtain a refund of all or any portion of an unused tax credit  
26 granted to the taxpayer under this part.

27 Section 1846-G. Sale or assignment.

28 (a) Application.--A taxpayer, upon application to and  
29 approval by the department, may sell or assign, in whole or in  
30 part, a tax credit granted to the taxpayer. The following shall

1 apply:

2 (1) The department and the Department of Revenue shall  
3 jointly issue guidelines for the approval of applications  
4 under this paragraph.

5 (2) Before an application is approved, the Department of  
6 Revenue must make a finding that the applicant has filed all  
7 required State tax reports and returns for all applicable  
8 taxable years and paid any balance of State tax due as  
9 determined at settlement, assessment or determination by the  
10 Department of Revenue.

11 (3) Notwithstanding any other provision of law, the  
12 Department of Revenue must settle, assess or determine the  
13 tax of an applicant under this paragraph within 90 days of  
14 the filing of each required final return or report in  
15 accordance with section 806.1(a)(5) of the act of April 9,  
16 1929 (P.L.343, No.176), known as The Fiscal Code.

17 (b) Use by purchaser or assignee.--The purchaser or assignee  
18 of all or a portion of a tax credit under subsection (a) must  
19 immediately claim the credit in the taxable year in which the  
20 purchase or assignment is made.

21 (1) The amount of the tax credit that a purchaser or  
22 assignee may use against any one qualified tax liability may  
23 not exceed 50% of the qualified tax liability for the taxable  
24 year.

25 (2) The purchaser or assignee may not carry forward,  
26 carry back or obtain a refund of or sell or assign the  
27 manufacturing tax credit.

28 (3) The purchaser or assignee shall notify the  
29 Department of Revenue of the seller or assignor of the  
30 manufacturing tax credit in compliance with procedures

1 specified by the Department of Revenue.

2 Section 1847-G. Pass-through entity.

3 (a) General rule.--If a pass-through entity has any unused  
4 tax credits under section 1845-G, the entity may elect in  
5 writing according to procedures established by the Department of  
6 Revenue, to transfer all or a portion of the credit to  
7 shareholders, members or partners in proportion or the share of  
8 the entity's distributive income to which the shareholder,  
9 member or partner is entitled.

10 (b) Application.--A shareholder, member or partner of a  
11 pass-through entity to whom a credit is transferred under  
12 subsection (a) shall immediately claim the credit in the taxable  
13 year in which the transfer is made. The shareholder, member or  
14 partner may not carry forward, carry back, obtain a refund of or  
15 sell or assign the credit.

16 Section 1848-G. Guidelines.

17 The department shall develop and publish guidelines necessary  
18 to implement this part.

19 Section 2. This act shall take effect immediately.