

**TAX REFORM CODE OF 1971 - OMNIBUS AMENDMENTS**

**Act of Jun. 30, 2021, P.L. 124, No. 25**

**Cl. 72**

Session of 2021

No. 2021-25

HB 952

AN ACT

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," in sales and use tax, further providing for exclusions from tax; in personal income tax, further providing for classes of income, for withholding tax requirement for nonemployer payors, for information statement for nonemployer payors and for information statement for payees, providing for electronic payment and further providing for requirements concerning returns, notices, records and statements and for additions, penalties and fees; in corporate net income tax, further providing for definitions; in bank and trust company shares tax, further providing for definitions; in realty transfer tax, correcting a scrivener's error relating to credits against tax; in tax credit eligibility, further providing for definitions and for eligibility and providing for application and administration, for assessment, for administering agency training, for broker registration, for tax credit and tax benefit reports, for allocation of tax credits or tax benefits awarded upon appeal and for guidelines; in research and development tax credit, further providing for credit for research and development expenses, for carryover, carryback, refund and assignment of credit and for report to General Assembly; in entertainment production tax credit, further providing for definitions, for credit for qualified film production expenses, for reissuance of film production tax credits, for definitions and for limitations and providing for Pennsylvania live events industry COVID-19 emergency assistance; in local resource manufacturing tax credit, further providing for application and approval of tax credit; in keystone opportunity zones, keystone opportunity expansion zones and keystone opportunity improvement zones, providing for extension for keystone opportunity expansion zone and further providing for additional keystone opportunity expansion zones; in mixed-use development tax credit, further providing for mixed-use development tax credits; in keystone innovations zones, further providing for keystone innovation zone tax credits and for annual report; in Pennsylvania Housing Tax Credit, further providing for Pennsylvania Housing Tax Credit and for annual report; in table game taxes, repealing provisions relating to expiration; in procedure and administration, further providing for petition for reassessment, for petition procedure and for review by board; in computer data center equipment incentive program, further providing for definitions and providing for applicability and for sales and use tax exemption program;

in general provisions, further providing for bad checks, electronic funds transfers not credited upon transmission and additions to tax; imposing duties on the Department of Revenue; and making editorial changes.

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

Section 1. The General Assembly finds and declares as follows:

(1) An error appeared in the publication of section 8 of the act of July 2, 1986 (P.L.318, No.77): The amendment of the definition of "document" in section 1101-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, used the word "devises" instead of the word "demises" and the word "devise" instead of the word "demise."

(2) An error appeared in the publication of section 11 of Act 77 of 1986: The addition of section 1102-C.4 of the Tax Reform Code of 1971, used the word "devise" instead of the word "demise."

(3) An error appeared in the publication of section 12 of Act 77 of 1986: The addition of section 1103-C(c) of the Tax Reform Code of 1971, used the word "devise" instead of the word "demise" and the word "devised" instead of the word "demised."

(4) The publication of the official law, without a footnote, does not match the enrolled bill nor comport with the interpretive regulation of the Department of Revenue at 61 Pa. Code §§ 91.111(a) (relating to imposition of tax on documents) and 91.112(a) (relating to statement of value).

(5) The errors are corrected by the amendment of the definition of "document" in section 1101-C and sections 1102-C.4 and 1103-C(c) of the Tax Reform Code of 1971.

Section 2. Section 204(67) and (68) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are amended and the section is amended by adding clauses to read:

Section 204. Exclusions from Tax.--The tax imposed by section 202 shall not be imposed upon any of the following:

\* \* \*

(67) The sale at retail or use of repair or replacement parts **or software or software upgrades**, including the installation of those parts, **software or software upgrades**, exclusively for use in helicopters and similar rotorcraft **and flight simulators** or in overhauling or rebuilding of helicopters and similar rotorcraft **and flight simulators** or helicopters and similar rotorcraft **and flight simulator** components. **For the purposes of this clause, the term "flight simulator" shall mean a device used for the training or instruction of an individual on a helicopter and similar rotorcraft.**

(68) The sale at retail or use **or lease** of helicopters and similar rotorcraft[.], **and flight simulators**, **as well as training materials, operational documents and publications relating to the use or operation of helicopters and similar rotorcraft and flight simulators.** **For the purposes of this clause, the term "flight simulator" shall mean a device used for the training or instruction of an individual on a helicopter and similar rotorcraft.**

\* \* \*

(74) The sale at retail or use of a multipurpose agricultural vehicle operated for the benefit of or pursuant to the operation of a farm owned or operated by the owner of

the vehicle or a business whose enterprises and activities are considered part of farming. For the purposes of this clause, the following terms or phrases shall have the following meanings:

"Multipurpose agricultural vehicle" shall mean a motor vehicle exempt from registration in accordance with 75 Pa.C.S. § 1302(17) (relating to vehicles exempt from registration) which is 66 inches or less in width and 2,000 pounds or less in dry weight and which is used exclusively for agricultural operations and only incidentally operated or moved upon the highways.

"Use of a multipurpose agricultural vehicle in farming" shall mean repairing and maintaining buildings, including houses, garages, barns, stables, greenhouses, mushroom houses and storehouses, fences and stanchions permanently affixed to real estate, as well as transporting farming personnel, collecting, conveying or transporting property to be used in farming and transporting or conveying the farm product after the final farming operation, which includes, but does not extend beyond, the operation of packaging for the ultimate consumer and storage.

(75) The sale at retail or use of tangible personal property manufactured for the purpose of initiating, supporting or sustaining breast feeding.

Section 3. Section 303 of the act is amended by adding a subsection to read:

Section 303. Classes of Income.--\* \* \*

**(a.10) The provisions of section 451(f) of the Internal Revenue Code of 1986, as amended, shall be applicable.**

\* \* \*

Section 3.1. Sections 316.2(a), 317.1 and 317.2 of the act are amended to read:

Section 316.2. Withholding Tax Requirement for Nonemployer Payors.--(a) To the extent not already required to withhold tax on payments under section 316.1, a person that:

(1) makes payments of income from sources within this Commonwealth described in section 303(a)(1) or (2) to either a nonresident individual or an entity that is disregarded under section 307.21 that has a nonresident member; and

(2) is required under section 335(f)(1) to file a copy of form 1099-MISC **or 1099-NEC** with the department regarding the payments;

shall deduct and withhold from the payments an amount equal to the net amount of the payments multiplied by the tax rate specified under section 302(b).

\* \* \*

Section 317.1. Information Statement for Nonemployer Payors.--Every payor required to deduct and withhold tax under section 316.2 shall furnish to a payee to whom the payor has paid income from sources within this Commonwealth during the calendar year a copy of form 1099-MISC **or 1099-NEC** required under section 335(f)(1). The copy of form 1099-MISC **or 1099-NEC** required by this section for each calendar year shall be forwarded to the payee on or before March 1 of the year succeeding the calendar year.

Section 317.2. Information Statement for Payees.--Every payee receiving a copy of form 1099-MISC **or 1099-NEC** from a payor under section 317.1 shall file a duplicate of such information return with the payee's State income tax return.

Section 3.2. The act is amended by adding a section to read:

**Section 332.1. Electronic Payment.--Any payment in the amount of fifteen thousand dollars (\$15,000) or more remitted to the department for the tax imposed under this article shall**

be remitted electronically as prescribed by the department. This section shall not apply to employer withholding payments under Part VII of this article and section 9 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

Section 4. Section 335(f)(1) and (2) of the act are amended to read:

Section 335. Requirements Concerning Returns, Notices, Records and Statements.--\* \* \*

(f) The following apply:

(1) Any person who:

(i) makes payments of Pennsylvania source income that fall within any of the eight classes of income enumerated in section 303(a);

(ii) makes such payments to an individual, an entity treated as a partnership for tax purposes or a single member limited liability company; and

(iii) is required to make a form 1099-MISC **or 1099-NEC** return to the Secretary of the Treasury of the United States with respect to such payments, shall file a copy of such form 1099-MISC **or 1099-NEC** with the department [and send a copy of such form 1099-MISC to the payee by March 1 of each year or, if filed electronically, by March 31 of each year] **on the due date of the form 1099-MISC or 1099-NEC**. If the form 1099-MISC **or 1099-NEC** filed by a payor with the Secretary of the Treasury of the United States [is not completed in such a manner that] **does not include the** State income and State tax withheld [information, currently boxes 16 through 18 on Federal form 1099-MISC, is reflected thereon] **as required under section 316.2**, the payor shall update the copies of form 1099-MISC **or 1099-NEC** to be provided pursuant to this section to reflect such information prior to filing it with the department and sending it to the payee.

(2) If the payor is required to perform electronic filing for Pennsylvania employer withholding purposes, the form 1099-MISC **or 1099-NEC** shall be filed electronically with the department.

\* \* \*

Section 5. Section 352(f)(4) and (5) of the act are amended and the section is amended by adding a subsection to read:

Section 352. Additions, Penalties and Fees.--\* \* \*

(f) \* \* \*

(4) Any person required to file a copy of form 1099-MISC **or 1099-NEC** with the department under the provisions of section 335(f) who wilfully furnishes a false or fraudulent form or who wilfully fails to file the form in the manner, at the time and showing the information required under section 335(f) shall, for each such failure, be subject to a penalty of fifty dollars (\$50).

(5) Any person required under the provisions of section 335(f) to furnish a copy of form 1099-MISC **or 1099-NEC** to a payee who wilfully furnishes a false or fraudulent form or who wilfully fails to furnish a form in the manner, at the time and showing the information required by section 335(f) shall, for each such failure, be subject to a penalty of fifty dollars (\$50).

\* \* \*

(k) If a tax payment is made and the payment does not comply with section 332.1 when required, the taxpayer that is liable for the tax shall, in addition to any other penalty, interest or addition provided by law, be liable for a penalty of three per cent of the payment remitted not to exceed five hundred dollars (\$500).

Section 6. Section 407.6(a)(5) of the act is amended to read:

Section 407.6. Definitions.--(a) For the purposes of this part only, the following words, terms and phrases shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

\* \* \*

(5) "Qualified manufacturing innovation and reinvestment deduction." An allowable deduction as determined, calculated and executed in a commitment letter between the department and the taxpayer. **The deduction shall be applied to the taxable income of the taxpayer to reduce a qualified tax liability of the taxpayer following the allocation and apportionment of the income of the taxpayer.**

\* \* \*

Section 7. The definition of "receipts" in section 701.5 of the act is amended to read:

Section 701.5. Definitions.--The following words, terms and phrases when used in this article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

"Receipts." The total of all items of income reported on the income statement of the institution's Reports of Condition at the end of the preceding calendar year. **If there is a combination of two or more institutions into one, the total of all items of income that would be reported on the income statements of the Reports of Condition of the constituent institutions shall be combined as if a single institution had been in existence for the year. For purposes of this definition, a combination shall include any acquisition required to be accounted for by using the purchase method in accordance with generally accepted accounting principles or a statutory merger or consolidation.** If the institution does not file quarterly Reports of Condition, the term shall include all items of income included on an income statement determined in accordance with generally accepted accounting principles for the preceding calendar year.

\* \* \*

Section 8. The definition of "document" in section 1101-C of the act is amended to read:

Section 1101-C. Definitions.--The following words when used in this article shall have the meanings ascribed to them in this section:

\* \* \*

"Document." Any deed, instrument or writing which conveys, transfers, [devises] **demises**, vests, confirms or evidences any transfer or [devise] **demise** of title to real estate in this Commonwealth, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding thirty years or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under section 1102-C.5 of this article.

\* \* \*

Section 9. Sections 1102-C.4 and 1103-C(c) of the act are amended to read:

Section 1102-C.4. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.--Except as otherwise provided in sections 1102-C.3 and 1102-C.5, documents which make, confirm or evidence any transfer or [devise] **demise** of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

Section 1103-C. Credits Against Tax.--\* \* \*

(c) Where there is a transfer of real estate which is [devised] **demised** by the grantor, a credit for the amount of tax paid at the time of the [devise] **demise** shall be given the grantor toward the tax due upon the transfer.

\* \* \*

Section 10. The heading of Article XVII-A.1 of the act is amended to read:

#### ARTICLE XVII-A.1

##### TAX CREDIT [ELIGIBILITY] AND TAX BENEFIT ADMINISTRATION

Section 11. The definition of "tax credit" in section 1701-A.1 of the act is amended and the section is amended by adding definitions to read:

Section 1701-A.1. 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:

"Administering agency." A department, board or commission that administers a tax credit or tax benefit as required by a law of this Commonwealth. The term does not include a keystone innovation zone coordinator under Article XIX-F.

"Applicant." A person applying to an administering agency for a tax credit or a tax benefit.

"Application." An application submitted to an administering agency by an applicant for a tax credit or tax benefit. The term includes a transfer application and supplemental documentation required to be provided by an applicant, including reports, returns and statements.

"Broker." A person that engages in the business of effectuating transactions in tax credits for the account of others, including assisting a taxpayer to apply for, sell, transfer, assign or purchase a tax credit. The term includes an entity and all of the following that perform similar functions for the entity:

(1) A partner, officer or director of the entity.

(2) An affiliate of the entity.

(3) Any other person occupying a similar status of the entity.

\* \* \*

"Person." Any individual, employer, association, fiduciary, partnership, corporation, entity, estate or trust, whether a resident or nonresident of this Commonwealth.

"Program year." The annual period in which the tax credit or tax benefit operates.

"Recipient." A person that is sold, assigned or transferred a transferrable tax credit.

"Tax benefit." For purposes of this article, a tax benefit authorized under any of the following:

(1) Article XVII-A.

(2) Article XVIII-C.

- (3) Article XIX-B.
- (4) Article XIX-D.
- (5) Article XXIX-C.
- (6) Article XXIX-D.
- (7) The act of October 6, 1998 (P.L.705, No.92), known as the **Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act.**

"Tax credit." A tax credit authorized under any of the following:

- (1) Article XVII-B.
- (2) Article XVII-D.
- (3) Article XVII-E.
- (4) Article XVII-G.
- (5) Article XVII-H.
- (6) Article XVII-I.
- (7) Article XVII-J.
- (8) Article XVII-K.
- (8.1) Article XVII-L.**
- (9) Article XVIII.
- (10) Article XVIII-B.
- (11) Article XVIII-D.
- (12) Article XVIII-E.
- (13) Article XVIII-F.
- (14) Article XVIII-G.
- (14.1) Article XVIII-H.**
- (15) Article XIX-A.
- (15.1) Article XIX-C.**
- (16) Article XIX-E.
- (16.1) Article XIX-F.**
- (17) Section 2010.
- [(18) Article XXIX-D.]
- (19) Article XX-B of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.
- (20) The act of December 1, 2004 (P.L.1750, No.226), known as the First Class Cities Economic Development District Act.**
- (21) 12 Pa.C.S. Ch. 34 (relating to Infrastructure and Facilities Improvement Program).
- (22) Any other program established by a law of this Commonwealth in which a person applies for and receives a credit against a tax. This paragraph shall not apply to a credit against a tax liability as a result of an overpayment.

"Taxpayer." A person that was approved for a tax credit or tax benefit or that received a transferrable tax credit by sale, assignment or transfer.

"Transfer application." An application submitted to the department or the administering agency by an applicant or a recipient as part of the sale, assignment or transfer of a transferrable tax credit to a recipient.

"Transferrable tax credit." A tax credit which may be sold, assigned or transferred from an applicant to a different taxpayer. The term includes a tax credit which may be transferred to a shareholder, member or partner of an applicant.

Section 12. Section 1702-A.1 of the act is amended to read: Section 1702-A.1. [Eligibility.] **Determination of eligibility and method of submission.**

(a) **Tax reports and returns.**--Except as otherwise provided by law, before a tax credit [can] **or tax benefit may** be awarded, the department [may] **or administering agency, as applicable, shall** make a finding that [the taxpayer] **an applicant or a recipient** has filed all required State tax reports and returns

for all applicable taxable years and paid any balance of State tax due as determined at settlement or assessment by the department, unless the tax due is [currently] under appeal at the time the finding was made by the department or administering agency.

(b) [(Reserved).] Notification.--For a tax credit authorized under Article XX-B of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, the department shall notify the Department of Community and Economic Development of any finding required under subsection (a) within 30 days of the Department of Community and Economic Development receiving a completed application.

(c) Electronic applications.--The department or administering agency, as applicable, may require an application for a tax credit or tax benefit to be filed electronically.

Section 13. The act is amended by adding sections to read: Section 1703-A.1. Application and administration.

(a) Insufficient application.--If an administering agency finds that an application is insufficient for the administering agency to determine whether the applicant is eligible to receive a tax credit or tax benefit, the department, in consultation with the administering agency, may do all of the following for applicants other than individuals who own less than 20% of the applicant:

(1) Require the submission of additional documentation or verification which verifies material in the application. Additional documentation or verification required under this paragraph may include any of the following:

(i) A copy of the photo identification of the applicant's or recipient's chief executive officer and any authorized representative responsible for submitting the application. A copy of photo identification under this subparagraph shall include the individual's name and address.

(ii) Bank account statements relating to the business.

(iii) Business records, including receipts and expenditures.

(iv) Business origination documents, including articles of incorporation, partnership or reference to documents under this subparagraph in records of the Department of State or similar entity in another jurisdiction.

(v) Any other information required by the department or administering agency to determine that the applicant is eligible to receive a tax credit or tax benefit with the application.

(2) For an applicant that is not an individual, require that the applicant or broker meet for a virtual or in-person interview with representatives or agents of the department or the administering agency to verify the contents of the application.

(3) For an applicant that is not an individual, require the applicant or broker to agree to submit to scheduled or unscheduled site inspections by the department, the administering agency or representatives or agents of the department or administering agency. If the site is located in an area where unscheduled site visits are not feasible, the department or administering agency shall provide sufficient notice prior to the visit. The department shall establish a policy to ensure the confidentiality of information collected or observed during a site inspection.

The policy shall include a prohibition on the taking of photos, video and audio recordings which are not related to the subjects regulated by the department.

(b) Risk criteria.--The department and an administering agency may jointly develop risk-scoring criteria to determine when an applicant other than an individual who owns less than 20% of the applicant may be required to do any of the following:

(1) As a condition of approval of the application, one of the following:

(i) If the amount of the tax credit or tax benefit is equal to or exceeds \$100,000, hire an independent auditor to prepare audited financial statements. The independent auditor under this subparagraph shall be a certified public accountant.

(ii) If the amount of the tax credit or tax benefit is less than \$100,000, provide an agreed-upon procedure report or a certification-of-costs report prepared by an independent certified public accountant.

(2) Provide information which shall be included in the audited financial statements under paragraph (1)(i) or agreed-upon procedure report or certification-of-costs report under paragraph (1)(ii) to be submitted to the department.

(3) Require the audited financial statements under paragraph (1)(i) or agreed-upon procedure report or certification-of-costs report under paragraph (1)(ii) be submitted to the department.

(c) Reports.--After approval and until a tax credit or tax benefit is fully used, an applicant that is approved for a tax credit or tax benefit shall file an annual report with the department or administering agency detailing all of the following, to the extent that the following is applicable to the tax credit or tax benefit:

(1) For a transferrable tax credit, all of the following:

(i) Whether the applicant used, sold, assigned or transferred a portion or all of the tax credit in the prior program year.

(ii) Whether the tax credit was sold, assigned or transferred for consideration in the prior program year and the name of the recipient.

(iii) If the tax credit was sold, assigned or transferred for consideration, the amount of the consideration.

(iv) If the tax credit was sold, assigned or transferred for consideration, whether the sale, assignment or transfer was conducted with the assistance of a broker and the name and registration number of the broker.

(2) If applicable, an itemization of expenses and jobs generated as a result of the receipt of the tax credit or tax benefit.

(3) Any other information that the department or administering agency deems necessary.

(d) Submission of data.--The department or administering agency shall provide the information submitted under subsection (c)(2) to the Independent Fiscal Office for use in preparing a tax credit report under section 5 of the act of October 30, 2017 (P.L.797, No.48), known as the Performance-Based Budgeting and Tax Credit Efficiency Act.

Section 1704-A.1. Assessment.

(a) General rule.--The department may issue an assessment against a taxpayer if the department determines that a tax

credit or tax benefit was improperly issued or the benefits of the tax credit or tax benefit were improperly conferred.

(b) Transferred tax credit assessment.--If a tax credit is sold, transferred or assigned to a bona fide purchaser for consideration, the department may issue an assessment authorized by subsection (a) against the applicant and the broker which signed the certification required by section 1706-A.1(g). An applicant and broker shall be jointly and severally liable for an assessment under this subsection.

(c) Liability restrictions.--A broker shall not be held jointly and severally liable for the amount due when the broker is purchasing or selling a tax credit or tax benefit in which the broker did not sign the certification required under section 1706-A.1(g) for the initial tax credit or tax benefit application. A broker under this subsection shall be liable only for the financial amount reported to the department on the program transfer application.

(d) Amount.--An assessment authorized by subsection (a) shall not exceed the face value of the tax credit or tax benefit or the benefits of the tax credit or tax benefit sold, transferred, assigned or otherwise improperly conferred and applicable interest.

(e) Procedures.--The procedures, collection, enforcement and appeals of an assessment made under subsection (a) or (b) shall be subject to Part X of Article III, except that the limitations on assessment and collection under section 348 shall not apply.

(f) Limitations.--

(1) Except as provided under paragraph (2), the department must issue an assessment under subsection (a) or (b) within three years of the date the tax credit or tax benefit is awarded or within three years of the date the tax credit is sold, transferred or assigned, whichever is later.

(2) If a taxpayer obtains a tax credit or tax benefit by fraud, the department may issue an assessment under subsection (a) or (b) at any time.

(3) If a broker is determined to have acted in good faith and was not negligent in duties regarding the information provided to the broker by the taxpayer, the department may not make an assessment against the broker.

Section 1705-A.1. Administering agency training.

(a) Training.--An administering agency shall provide agency employees, representatives and agents of the administering agency that assist applicants with applications with training on all of the following:

(1) The requirements for a tax credit or tax benefit.

(2) Advising an applicant that has been issued a tax credit or tax benefit of the duty of the applicant to file reports concerning use of the tax credit or tax benefit as required by the laws of this Commonwealth.

(3) Conducting site inspections to verify compliance with the requirements relating to application for and issuance of a tax credit or tax benefit.

(4) Conducting scheduled and unscheduled visits to the site of a taxpayer to ensure compliance with the requirements of the tax credit or tax benefit.

(b) (Reserved).

Section 1706-A.1. Broker registration.

(a) Registration required.--A person that acts as a broker shall register with the department under this section. An agent or other party representing a broker or assisting a broker on behalf of an applicant, including a person that executes an

application for an applicant, or the sale, assignment or transfer of a transferrable tax credit shall register under this section.

(b) Guidelines.--The department, in consultation with the Department of Community and Economic Development, shall establish guidelines providing for the application and registration of a broker under this section. The guidelines shall require all of the following:

(1) The name and address of the broker.

(2) The name and address of the business with which the broker is employed or otherwise associated that is located and maintaining a place of business in this Commonwealth.

(3) That the broker be at least 18 years of age.

(4) The minimum educational requirements, qualifications and experience necessary for the issuance of a registration under this section.

(5) A criminal background check prepared by the Pennsylvania State Police that demonstrates the broker has not been convicted of a felony offense or an offense that involved fraud or misrepresentation in this Commonwealth or any other jurisdiction.

(6) A list of each professional license that has been issued to the broker and whether the broker is in good standing with the licensing authority.

(7) Verification that the application is submitted in accordance with 18 Pa.C.S. §§ 4903 (relating to false swearing) and 4904 (relating to unsworn falsification to authorities).

(8) Payment of any required application, licensing and registration fees.

(9) Tax clearance showing satisfaction of all State and local taxes.

(c) Applications.--A broker shall obtain an initial or renewed registration by filing an application with the department, providing the renewal information and documentation and paying all fees as required by the department.

(d) Duration of registration.--A registration under this section shall be valid for a period of two years from the date of issuance.

(e) Registration number.--A registration under this section shall include a unique registration number for the broker. A registration under this section may be suspended or revoked by the department for good cause.

(f) Appeals.--A broker who is denied a registration under this section, or whose registration is suspended or revoked, may appeal the department's determination in the same manner as provided by Article XXVII.

(g) Attachment of certification.--A broker executing the sale of a transferrable tax credit or assisting an applicant or a taxpayer to apply for or purchase a tax credit shall do all of the following:

(1) Attach a certification to the application that the statements and representations made in the application are true and correct and subject to the penalties as set forth in 18 Pa.C.S. § 4903 or 4904.

(2) Include the broker's unique registration number issued by the department in the certification under this subsection.

(h) Fees.--The department may require the payment of an application fee to review and process a registration under this subsection.

(i) Penalties.--A person who violates the requirements specified under this section shall pay a civil fine of up to \$25,000 for the first offense and up to \$50,000 for each additional offense to the department.

(j) Bond required.--A broker registered under this section shall post a bond of \$50,000 with the department.

Section 1707-A.1. Tax credit and tax benefit reports.

(a) Reports.--Notwithstanding any law providing for the confidentiality of tax credits, beginning with the first program year which begins after the effective date of this section and each program year thereafter, the administering agency shall publish a report for each tax credit or tax benefit, which shall include the following information:

(1) The name of each applicant that received a tax credit or tax benefit in the prior program year.

(2) For a tax credit, the amount of tax credit awarded to each applicant.

(3) For a transferrable tax credit, whether an applicant under paragraph (1) sold, assigned or transferred a transferrable tax credit in the prior program year.

(4) If applicable, a summary of the data submitted under section 1703-A.1(c)(2).

(5) If available to the administering agency, all of the following relating to a transferrable tax credit:

(i) The name of the recipient to which the transferrable tax credit under paragraph (3) was sold, assigned or transferred in the prior program year. The name of an individual receiving a transferrable tax credit without consideration from a pass-through entity in which the individual is a shareholder, member or partner shall not be published.

(ii) The amount of the transferrable tax credit under paragraph (3) that was sold, assigned or transferred.

(iii) The price for which a tax credit under paragraph (2) was sold, assigned or transferred.

(b) Publication.--

(1) Except as provided under paragraph (2), an administering agency shall publish a report on each tax credit or tax benefit under subsection (a) on the administering agency's publicly accessible Internet website no later than 45 days after the end of a program year.

(2) If an administering agency is required by a law of this Commonwealth to prepare an annual report on the tax credit or tax benefit, the information under subsection (a) shall be included in the annual report required by the law of this Commonwealth.

Section 1708-A.1. Allocation of tax credits or tax benefits awarded upon appeal.

(a) Appeal.--If an administering agency denies an applicant's application for a tax credit or tax benefit program, the applicant may appeal the administering agency's determination in the same manner as provided by Article XXVII.

(b) Awarding of tax credit or tax benefit upon appeal.--The following shall apply to an allocation of tax credits awarded upon the final resolution of an appeal:

(1) If an applicant is awarded a tax credit which is subject to a total annual limitation, upon the final resolution of an appeal after the full allocation of credits

available for a fiscal year is completely expended, the administering agency shall include the awarded tax credit within the distribution of tax credits in the next program year after the resolution of the appeal for which an amount for allocation is available.

(2) When awarding a tax credit to an applicant under paragraph (1), the administering agency shall apply any reduction in the awarded tax credit amount as was applied in the program year for which the credit was denied if the reduction was applied due to the total credits applied for exceeding the amount of credits allocated for the program year.

(3) When awarding a tax credit to an applicant under paragraph (1), the administering agency shall reduce the total amount of credits available for allocation in the next program year by the amount of credits awarded.

(4) The awarded tax credits under paragraph (1) shall apply for the program year in which the credit was denied.

(c) Appeal.--If the Department of Community and Economic Development denies an applicant's application for a tax credit or tax benefit program, the applicant may appeal in a manner established by the Department of Community and Economic Development.

(d) Definition.--As used in this section, the term "administering agency" does not include the Department of Community and Economic Development.

#### Section 1709-A.1. Guidelines.

The department shall establish guidelines for the implementation of this article.

Section 14. Sections 1703-B(a) and (c), 1704-B(a) and (b) and 1711-B of the act are amended to read:

Section 1703-B. Credit for Research and Development Expenses.--(a) A taxpayer who incurs Pennsylvania qualified research and development expense in a taxable year may apply for a research and development tax credit as provided in this article. By [September 15] **December 1**, a taxpayer must submit an application to the department for Pennsylvania qualified research and development expense incurred in the taxable year that ended in the prior calendar year.

\* \* \*

(c) By [December 15 of the ] **May 1 of the second** calendar year following the close of the taxable year during which the Pennsylvania qualified research and development expense was incurred, the department shall notify the taxpayer of the amount of the taxpayer's research and development tax credit approved by the department.

Section 1704-B. Carryover, Carryback, Refund and Assignment of Credit.--(a) If the taxpayer cannot use the entire amount of the research and development tax credit for the **first** taxable year in which the **taxpayer applied for a** research and development tax credit [is first approved], then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time that the research and development 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 research and development tax credit provided by this article may be carried over and applied to succeeding taxable years for no more than fifteen taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(b) A research and development tax credit approved by the department for Pennsylvania qualified research and development 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] **taxpayer applied for the credit** before the research and development tax credit is applied against any tax liability under subsection (a).

\* \* \*

Section 1711-B. Report to General Assembly.--The secretary shall submit an annual report to the General Assembly indicating the effectiveness of the credit provided by this article no later than [March 15 following the] **October 1 following the calendar** year in which the credits were approved. The report shall include the names of all taxpayers utilizing the credit as of the date of the report and the amount of credits approved and utilized by each taxpayer. Notwithstanding any law providing for the confidentiality of tax records, the information contained in the report shall be public information. The report may also include any recommendations for changes in the calculation or administration of the credit.

Section 15. Section 1711-D of the act is amended by adding a definition to read:

Section 1711-D. Definitions.

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

\* \* \*

**"Multifilm." A series of separate and distinct films produced by the same taxpayer over a period of no less than one year and no more than four years from the time of application.**

\* \* \*

Section 16. Sections 1712-D(b) and 1716.1-D(a) of the act are amended by adding paragraphs to read:

Section 1712-D. Credit for qualified film production expenses.

\* \* \*

(b) Review and approval.--The department shall establish application periods not to exceed 90 days each. All applications received during the application period shall be reviewed and evaluated by the department based on the following criteria:

\* \* \*

**(7.1) If a multifilm application is submitted, the department shall consider the ability of the taxpayer to produce multiple films within this Commonwealth during the proposed period of production and the potential economic impact, including tourism impact, of the multiple films to this Commonwealth.**

\* \* \*

Section 1716.1-D. Reissuance of film production tax credits.

(a) Reissuance.--In any fiscal year, the department may reissue a tax credit which meets all of the following:

\* \* \*

**(4) If an individual film that was issued a tax credit as part of a multifilm application is canceled, the department may reissue that tax credit only after allowing the taxpayer 90 days to submit an application for an alternative individual film, produced by the taxpayer for that tax credit. The department may approve or reject the application.**

\* \* \*

Section 17. The definitions of "concert tour equipment," "recipient," "taxpayer," "tour," "tour expense" and "venue" in section 1772-D of the act are amended and the section is amended by adding definitions to read:

Section 1772-D. Definitions.

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

\* \* \*

"Concert tour equipment." Includes stage, set, scenery, design elements, automation, rigging, trusses, spotlights, lighting, sound equipment, video equipment, special effects, cases, communication devices, power distribution equipment, backline, **personal protective equipment** and other miscellaneous equipment or supplies used during a concert or rehearsal.

\* \* \*

"**Pennsylvania live events industry.**" A qualified rehearsal facility, vendors of concert tour equipment located and maintaining a place of business in this Commonwealth, venues located in this Commonwealth and any promoter of live performances located and maintaining a place of business in this Commonwealth.

\* \* \*

"**Personal protective equipment.**" Includes equipment, services and supplies necessary to screen, test, shield or protect performers or individuals from health pathogens during a rehearsal, streaming performance or tour. The term includes costs associated with cleaning and disinfecting qualified rehearsal facilities and venues used on a tour and costs associated with complying with safety-protocols established to combat COVID-19 and other health pathogens.

\* \* \*

"Recipient." A taxpayer that has been awarded a tax credit under section 1773-D(e) or 1782-D(e).

\* \* \*

"**Streaming performance.**" A live performance which is performed at a qualified rehearsal facility to be remotely viewed by individuals. The term includes streaming and broadcasting of a performance.

\* \* \*

"Taxpayer." A musical performer or performers or a concert tour management company of a musical performer or performers subject to tax under Article III, IV or VI. The term does not include contractors or subcontractors of a musical performer or performers or of a concert tour management company of a musical performer or performers. **For fiscal years beginning July 1, 2021, and ending June 30, 2023, the term also includes a management company of a professional sports league, a news broadcasting station, a production company, a creative agency or a broadcaster, subject to tax under Article III or IV.**

"Tour." A series of concerts performed or to be performed by a musical performer in more than one location. The term includes at least one rehearsal. **For fiscal years beginning July 1, 2021, and ending June 30, 2023, the term also includes a streaming performance.**

"Tour expense." As follows:

(1) Costs incurred or which will be incurred during a tour for venues located in this Commonwealth. The term includes all of the following:

(i) A payment which is made or will be made by a recipient to a person upon which withholding will be made on the payment by the recipient as required under

Part VII of Article III or a payment which is made or will be made to a person who is required to make estimated payments under Part VIII of Article III.

(ii) The cost of transportation of people which is incurred or will be incurred while transporting to or from a train station, bus depot, airport or other transportation facility or while transporting directly from a residence or business entity located in this Commonwealth, or which is incurred or will be incurred for transportation provided by a company which is subject to the tax imposed under Article III or IV.

(iii) The cost of leasing vehicles upon which the tax imposed by Article II will be paid or accrued.

(v) The cost of purchasing or renting facilities and equipment from or through a resident of this Commonwealth or an entity subject to taxation in this Commonwealth.

(vi) The cost of food and lodging which is incurred or will be incurred from a facility located in this Commonwealth.

(vii) Expenses which are incurred or will be incurred in marketing or advertising a tour at venues located within this Commonwealth.

(viii) The cost of merchandise which is purchased or will be purchased from a company located within this Commonwealth and used on the tour.

(ix) A payment which is made or will be made to a personal service corporation representing individual talent if the tax imposed by Article IV will be paid or accrued on the net income of the corporation for the taxable year.

(x) A payment which is made or will be made to a pass-through entity representing individual talent for which withholding will be made by the pass-through entity on the payment as required under Part VII or VII-A of Article III.

**(1.1) The cost of concert tour equipment not used during rehearsal but used for an entire tour if the concert tour equipment is purchased or will be purchased from a company maintaining a place of business in this Commonwealth and subject to the tax imposed under Article III or IV. The term includes the cost of personal protective equipment which is purchased or will be purchased from a company located within this Commonwealth and used on the tour.**

(2) The term does not include development cost, including the writing of music or lyrics.

**"Venue." A class 1, class 2 or class 3 venue. For fiscal years beginning July 1, 2021, and ending June 30, 2023, the term also includes a qualified rehearsal facility when used for a streaming performance.**

Section 18. Section 1777-D(a) and (b) of the act are amended to read:

Section 1777-D. Limitations.

(a) Cap.--

**(1)** The aggregate amount of tax credits awarded in a fiscal year under this subarticle may not exceed \$8,000,000.

**(2)** In a fiscal year, the department may, in the department's discretion, advance the award of tax credits for qualified rehearsal and tour expenses incurred or to be incurred equal to \$2,000,000 of the tax credits available to be awarded in the succeeding fiscal year.

(3) If, in a fiscal year, the maximum amount of credits authorized by this subsection are not awarded by the department, the department may increase the total amount of tax credits that the department may award for qualified rehearsal and tour expenses incurred or to be incurred related to a tour in the immediately succeeding fiscal year by the amount that was not awarded in the preceding fiscal year.

(b) Advance award of credits.--The advance award of tax credits under subsection [(a)] (a) (2) shall:

(1) count against the total amount of tax credits that the department may award for qualified rehearsal and tour expenses incurred or to be incurred related to a tour in that next succeeding fiscal year; and

(2) reduce the total amount of tax credits that the department may award for qualified rehearsal and tour expenses incurred or to be incurred related to a tour in that next succeeding fiscal year.

\* \* \*

Section 19. The act is amended by adding a section to read:  
**Section 1782-D. Pennsylvania live events industry COVID-19 emergency assistance.**

(a) Intent.--It is the intent of the General Assembly to assist the Pennsylvania live events industry which has been severely impacted by the COVID-19 virus by providing a temporary procedure to further encourage live event performers to purchase Pennsylvania products and services while safely entertaining residents of this Commonwealth.

(b) Application.--For fiscal years beginning July 1, 2021, and ending June 30, 2023, and notwithstanding section 1773-D, a taxpayer may apply to the department for a tax credit related to a streaming performance under this section. The application shall be on the form required by the department.

(c) Review and approval.--

(1) The department shall establish application periods not to exceed 10 days on a bimonthly basis. All applications received during an application period shall be reviewed and evaluated by the department based on the following criteria:

(i) The anticipated number of rehearsal days in a qualified rehearsal facility.

(ii) The anticipated number of streaming performances.

(iii) The anticipated amount of Pennsylvania rehearsal and tour expenses.

(iv) The anticipated amount of the concert tour equipment expenses which are or will be purchased or rented from companies located and maintaining a place of business in this Commonwealth and which will be used for the rehearsal and streaming performances.

(v) The anticipated amount of the concert tour equipment expenses which are not or will not be purchased or rented from companies located and maintaining a place of business in this Commonwealth and which will be used for the rehearsal and streaming performances.

(vi) The anticipated number of days spent in Commonwealth hotels.

(vii) Other criteria that the department deems appropriate to ensure maximum employment opportunities and entertainment benefits for the residents of this Commonwealth.

(2) The department may approve the taxpayer for a tax credit upon determining all of the following:

(i) That the taxpayer has paid the applicable application fee, not to exceed \$300.

(ii) That the taxpayer has met or will meet all of the following:

(A) Has or will rehearse at a qualified rehearsal facility for a minimum of seven days.

(B) Has or will perform at least one streaming performance at a qualified rehearsal facility.

(C) Has incurred or will incur Pennsylvania rehearsal and tour expenses in an amount of at least \$300,000 from companies located and maintaining a place of business in this Commonwealth.

(D) Has or will purchase or rent concert tour equipment to be delivered to a qualified rehearsal facility in an amount of at least \$225,000 from companies located and maintaining a place of business in this Commonwealth.

(E) Has or will purchase or rent at least 70% of the concert tour equipment to be used for the rehearsal and any streaming performances from companies located and maintaining a place of business in this Commonwealth.

(F) Maintains a place of business in this Commonwealth or employs a representative for the period beginning with the start date and ending with the award of tax certificates under this section.

(d) Contract.--If the department approves the taxpayer's application under subsection (c)(2), the department and the taxpayer shall enter into a contract containing the following:

(1) The start date or the expected start date.

(2) With respect to a contract entered into prior to completion of a streaming performance, a commitment by the taxpayer to hold at least one streaming performance at a qualified rehearsal facility.

(3) With respect to a contract entered into prior to completion of a streaming performance, a commitment by the taxpayer to incur the Pennsylvania rehearsal and tour expenses as itemized.

(4) Any other information the department deems appropriate.

(e) Certificate.--Upon execution of the contract required by subsection (d), the department shall award the taxpayer a tax credit and issue the recipient a tax credit certificate.

(f) Limitations.--

(1) A taxpayer may not be awarded more than 25% of Pennsylvania rehearsal and tour expenses the taxpayer incurred or will incur for a tour.

(2) A taxpayer may not be awarded more than \$250,000 of tax credits for a tour.

(g) Cap.--Any award of tax credits made under this section shall count against and reduce the total amount of tax credits that the department may award under section 1777-D(a) for qualified rehearsal and tour expenses incurred or to be incurred related to a tour in that fiscal year.

Section 19.1. Section 1704-L(d) of the act, added July 23, 2020 (P.L.654, No.66), is amended to read:

Section 1704-L. Application and approval of tax credit.

\* \* \*

(d) Availability of tax credits.--

(1) Each fiscal year, \$26,666,668 in tax credits shall be made available to the department in accordance with this article.

(2) No more than [four] **two** qualified taxpayers shall receive a tax credit annually, for a maximum credit of \$6,666,667 each.

(3) The department[, at its discretion, may] **shall** issue unallocated credits to [a] **no more than one** qualified taxpayer, notwithstanding the maximum credit limit under paragraph (2)[.], **if the qualified taxpayer:**

(i) **has made a total capital investment of at least \$1,000,000,000 in order to construct the project facility and place the project facility into service in this Commonwealth;**

(ii) **has created a minimum aggregate total of 1,800 new jobs and permanent jobs; and**

(iii) **has satisfied all other eligibility requirements for a qualified taxpayer under this article.**

(4) **For purposes of paragraph (3), the term "unallocated credits" means the difference between tax credits authorized under paragraph (1) and approved under paragraph (2).**

Section 20. The act is amended by adding a section to read:  
**Section 1913-D. Extension for keystone opportunity expansion zone.**

(a) **General rule.--The department may approve an application to grant an extension for a parcel located within a keystone opportunity zone, keystone opportunity expansion zone or keystone opportunity improvement zone upon application by a political subdivision.**

(b) **Application.--This section shall apply to a parcel located within a keystone opportunity zone, keystone opportunity expansion zone or keystone opportunity improvement zone that expires in 2022, if the parcel is located within a county of the third class with a population of at least 350,000 but less than 410,000 based on the 2010 Federal decennial census.**

(c) **Extension period.--An extension granted under this section shall be for a period of five years.**

Section 21. Sections 1921-D(d), 1907-E(a), 1906-F(b) and (d) and 1908-F of the act are amended to read:  
**Section 1921-D. Additional keystone opportunity expansion zones.**

\* \* \*

(d) **Application.--**

(1) **In order to receive a designation under this section, the department must receive an application from a political subdivision or its designee no later than October 1, [2021] 2022. The application must contain the information required under section 302(a)(1), (2)(i) and (ix), (5) and (6) of the KOZ Act.**

(2) **The department, in consultation with the Department of Revenue, shall review the application and, if approved, issue a certification of all tax exemptions, deductions, abatements or credits under this act for the zone within three months of receipt of the application.**

(3) **The department shall act on an application for a designation under section 302(a)(1) of the KOZ Act by December 31, [2021] 2022.**

(4) **The department may make designations under this section on a rolling basis during the application period.**

\* \* \*

Section 1907-E. **Mixed-use development tax credits.**

(a) **Tax credit authority.--For purposes, and in accordance with the provisions of this article, the agency may allocate an amount not to exceed [\$3,000,000] \$4,500,000 in each fiscal year in mixed-use development tax credits and is directed to**

deposit proceeds and earnings derived from the sale into the fund.

\* \* \*

Section 1906-F. Keystone innovation zone tax credits.

\* \* \*

(b) Application for tax credit.--A KIZ company may file an application for a tax credit with the department. An application under this subsection must be filed by [September 15 of each year for the prior taxable year, beginning September 15, 2006] **December 1 for the prior tax year.** The application must be submitted on a form required by the department and must be accompanied by a certification from the KIZ coordinator that the KIZ company falls within a targeted industry segment identified in the strategic plan adopted by the KIZ partnership [.] , **and meets any other requirements specified by the department.** The department shall review the application and, upon being satisfied that all requirements have been met, the department shall issue a tax credit certificate to the KIZ company. All certificates shall be awarded by [December 15 of each year] **May 1 of each year following the calendar year of application.**

\* \* \*

(d) Application of tax credit and election.--A tax credit approved under this section must be first applied against the KIZ company's tax liability under Article III, IV or VI, for the taxable year [during] **in which the taxpayer applied for the tax credit [is approved].** If the amount of tax liability owed by the KIZ company is less than the amount of the tax credit, the KIZ company may elect to carry forward the amount of the remaining tax credit for a period not to exceed four additional taxable years and to apply the credit against tax liability incurred during those tax years; or the KIZ company may elect to sell or assign a portion of the tax credit in accordance with the provisions of subsection (f). A KIZ company may not carry back or obtain a refund of an unused keystone innovation zone tax credit.

\* \* \*

Section 1908-F. Annual report.

The department shall submit an annual report to the Secretary of the Senate and the Chief Clerk of the House of Representatives indicating the effectiveness of the keystone innovation zone tax credit provided by this article by [December 31 of each year, beginning December 31, 2007] **October 1 of each year following the calendar year of application.** Notwithstanding any law providing for the confidentiality of tax records, the report shall include the names of all taxpayers awarded the credits, all taxpayers utilizing the credits, the amount of credits approved and utilized by each taxpayer and the locations of the KIZ companies awarded the credits. The report shall be a public document.

Section 21.1. Sections 1903-G(b), (c), (c.1) and (d) and 1910-G(a) of the act, added November 3, 2020 (P.L.1074, No.107), are amended to read:

Section 1903-G. Pennsylvania Housing Tax Credit.

\* \* \*

(b) Availability.--[Tax credits may not be awarded under this article until the notice under subsection (c.1) is published.]

**(1) Beginning in fiscal year 2021-2022 and each fiscal year thereafter, the agency may award a total of \$10,000,000 in tax credits per fiscal year in accordance with this article.**

(2) In addition to the amount allocated under paragraph (1), the agency may award any unallocated tax credits from the preceding fiscal year.

(c) Maximum amount.--[(Reserved).] **No taxpayer may be awarded a tax credit for an amount that exceeds \$1,500,000 for a qualified low-income housing project.**

[(c.1) Notice.--Upon an enactment after the effective date of this subsection to make an amount of tax credits available under this article, the Secretary of the Budget shall submit a notice to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.]

(d) Application.--

[(1) The agency may not accept applications for a tax credit under this section until the notice under subsection (c.1) is published.]

(1.1) A taxpayer may apply to the agency for a tax credit under this section by submitting an application on a form required by the agency.

(2) The agency may require such information on the application as necessary to verify compliance with this act.

(3) Except as otherwise provided by law, before the tax credit may be awarded, the department must find that the taxpayer has filed all required State tax reports and returns for all applicable tax years and paid any balance of State tax due as determined at settlement or assessment by the department, unless the tax due is currently under appeal.

\* \* \*

Section 1910-G. Annual report.

(a) Duty of agency.--[By the first September 30 of the calendar year after the notice under 1903-G(c.1) is published and each September 30 thereafter,] **On or before October 1, 2022, and each October 1 thereafter,** the agency shall submit a report on the tax credit to the chairperson and minority chairperson of the Appropriations Committee of the Senate, the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives, the chairperson and minority chairperson of the Urban Affairs and Housing Committee of the Senate and the chairperson and minority chairperson of the Urban Affairs Committee of the House of Representatives. The report shall include **the following information for the prior fiscal year:**

(1) The number and amount of tax credits awarded [in the prior fiscal year].

(2) The taxpayers that were awarded tax credits [in the prior fiscal year].

(3) The amount of tax credits issued to each taxpayer [in the prior fiscal year].

\* \* \*

Section 21.2. Section 2503 of the act is repealed:

[Section 2503. Expiration.

(a) Expiration.--This article shall expire August 1, 2021.]

Section 22. Section 2702 of the act is amended by adding a subsection to read:

Section 2702. Petition for reassessment.

\* \* \*

(a.2) **Petition for review of denial of tax credit or tax benefit.--The following apply:**

(1) **A petition for reassessment under subsection (a) may include a request for review of a denial of an application for a tax credit or tax benefit made by an administering agency.**

(2) The administering agency shall have the right to be represented in all proceedings before the department. An applicant filing a petition under paragraph (1) shall provide a copy of the petition to the administering agency within 30 days of the applicant filing the petition with the department.

(3) The department's review of a petition filed under paragraph (1) shall be limited to the administering agency's denial of a tax credit or tax benefit and shall not include a review of any underlying tax determinations.

(4) For the purposes of this subsection:

(i) The terms "applicant," "tax benefit" and "tax credit" shall have the same meaning as in section 1701-A.1.

(ii) The term "administering agency" shall have the same meaning as in section 1701-A.1 but shall not include the Department of Community and Economic Development.

\* \* \*

Section 23. Section 2703(a) of the act is amended by adding paragraphs and the section is amended by adding a subsection to read:

Section 2703. Petition procedure.

(a) Content of petition.--

\* \* \*

(2.2) A petition for review of tax adjustment not resulting in an increase in liability shall state:

(i) The tax type and tax periods included within the petition.

(ii) The amount of the tax that the taxpayer claims to have been erroneously adjusted.

(iii) The basis upon which the taxpayer claims that the adjustment is erroneous.

(2.3) A petition for review of denial of tax credit or tax benefit shall state:

(i) The tax credit or tax benefit program for which the applicant was denied.

(ii) The amount of the tax credit or tax benefit that the taxpayer claims to have been erroneously denied.

(iii) The basis upon which the taxpayer claims that the denial is erroneous.

\* \* \*

(b.1) Participation of administering agency.--An administering agency of a tax credit or tax benefit shall be permitted to participate in a hearing before the department.

The department shall notify the administering agency of the date, time and place where the hearing will be held. The administering agency shall be provided the opportunity to comment upon any submitted evidence and provide written and oral argument to support its denial.

\* \* \*

Section 24. Section 2704(d.1) of the act is amended by adding a paragraph to read:

Section 2704. Review by board.

\* \* \*

(d.1) Representation.--

\* \* \*

(3) An administering agency of a tax credit or tax benefit shall be permitted to participate in all proceedings before the board. The board shall notify the administering agency of the date, time and place where the hearing will be held. The administering agency shall be provided the

**opportunity to comment upon any submitted evidence and provide written and oral argument to support its denial.**

\* \* \*

Section 25. Article XXIX-D of the act is amended by adding a subarticle heading to read:

**SUBARTICLE A  
PRELIMINARY PROVISIONS**

Section 26. The definition of "tax refund" in section 2901-D of the act is amended and the section is amended by adding definitions to read:

Section 2901-D. 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:

\* \* \*

**"Tax exemption." The tax exemption provided under Subarticle C.**

"Tax refund." The tax refund provided for under [this article] **Subarticle B.**

**"Telecommunications provider." A provider of telecommunications services as defined in 61 Pa. Code § 60.20 (relating to telecommunications service).**

\* \* \*

Section 27. Article XXIX-D of the act is amended by adding a subarticle heading to read:

**SUBARTICLE B  
SALES AND USE TAX REFUND PROGRAM**

Section 28. Section 2902-D of the act is renumbered to read: Section [2902-D] **2911-D.** Sales and use tax refund.

(a) Application.--Beginning July 1, 2017, an owner or operator or qualified tenant of a computer data center certified under this article may apply for a tax refund of taxes paid under Article II upon the sale at retail or use of computer data center equipment for installation in a computer data center, purchased by:

(1) An owner or operator of a computer data center certified under this article.

(2) A qualified tenant certified under this article.

(b) Applicability.--Taxes paid under Article II during the qualification period shall be eligible for a refund under this article.

(c) Exclusions.--The following do not qualify for a tax refund:

(1) Computer data center equipment used by the computer data center to:

(i) generate electricity for resale purposes to a power utility, except for sales incidental to the primary sale to computer data centers and which qualify under subparagraph (ii); or

(ii) generate, provide or sell more than 5% of its electricity outside of the computer data center.

(2) (Reserved).

Section 29. Sections 2903-D, 2904-D and 2905-D of the act are renumbered and amended to read:

Section [2903-D] **2912-D.** Application for certification.

To be considered for a certification, an owner or operator of a computer data center shall submit to the department an application on a form prescribed by the department that includes the following:

(1) The owner's or operator's name, address and telephone number.

(2) The address of the site where the facility is or will be located, including, if applicable, information sufficient to identify the specific portion or portions of the facility comprising the computer data center.

(3) If the computer data center is to qualify under section [2906-D(1)] **2915-D(1)**, the following information:

(i) The anticipated investment associated with the computer data center for which the certification is being sought.

(ii) An affirmation, signed by an authorized executive representing the owner or operator, that the computer data center is expected to satisfy the certification requirements prescribed in section [2906-D(1)] **2915-D(1)**.

(4) If the computer data center is to qualify under section [2906-D(2)] **2915-D(2)**, an affirmation, signed by an authorized executive representing the owner or operator, that the computer data center has satisfied, or will satisfy, the certification requirements prescribed in section [2906-D(2)] **2915-D(2)**.

(5) The department shall begin accepting applications no later than 90 days after the effective date of this section.

Section [2904-D] **2913-D**. Review of application.

(a) General rule.--Within 60 days after receiving a complete and correct application, the department shall review the application and either issue a written certification that the computer data center qualifies for the certification or provide written reasons for its denial.

(b) Deemed approval.--Failure of the department to approve or deny an application within 60 days after the date the owner or operator of a computer data center submits the application to the department constitutes certification of the computer data center, and the department shall issue written certification to the owner or operator within 14 days. The department may not certify any computer data center after December 31, [2029] **2021**.

Section [2905-D] **2914-D**. Separation of facilities.

(a) Separate certification.--An owner or operator of a computer data center may separate a facility into one or more computer data centers, which may each receive a separate certification, if each computer data center individually meets the requirements prescribed in section [2906-D] **2915-D**.

(b) Limitation.--A portion of a facility or an article of computer data equipment shall not be deemed to be a part of more than one computer data center.

(c) Aggregation.--An owner or operator may aggregate one or more parcels, buildings or condominiums in a facility into a single computer data center if, in the aggregate, the parcels, buildings and condominiums meet the requirements of this article.

Section 30. Section 2906-D of the act is renumbered to read: Section [2906-D] **2915-D**. Eligibility requirements.

A computer data center must meet one of the following requirements, after taking into account the combined investments made and annual compensation paid by the owner or operator of the computer data center or the qualified tenant:

(1) On or before the fourth anniversary of certification, the computer data center creates a minimum investment of:

(i) At least \$25,000,000 of new investment if the computer data center is located in a county with a population of 250,000 or fewer individuals; or

(ii) At least \$50,000,000 of new investment if the computer data center is located in a county with a population of more than 250,000 individuals.

(2) One or more taxpayers operating or occupying a computer data center, in the aggregate, pay annual compensation of at least \$1,000,000 to employees at the certified computer data center site for each year of the certification after the fourth anniversary of certification.

Section 31. Sections 2907-D and 2908-D of the act are renumbered and amended to read:

Section [2907-D] **2916-D**. Notification.

(a) Requirements satisfied.--On or before the fourth anniversary of the certification of a computer data center, the owner or operator of a computer data center shall notify the department in writing whether the computer data center for which the certification is requested has satisfied the requirements prescribed in section [2906-D] **2915-D**.

(b) Records.--Until a computer data center satisfies the requirements prescribed in section [2906-D] **2915-D**, the owner, operator and qualified tenants shall maintain detailed records of all investments created by the computer data center, including costs of buildings and computer data center equipment, and all tax refunds directly received by the owner, operator or qualified tenant.

Section [2908-D] **2917-D**. Revocation of certification.

(a) Revocation.--If the department determines that the requirements of section [2906-D] **2915-D** have not been satisfied, the department may revoke the certification of a computer data center.

(b) Appeal.--The owner or operator of the computer data center may appeal the revocation. Appeals filed under this section shall be governed by Article II.

(c) Recapture.--If certification is revoked pursuant to this section, the qualification period of any owner, operator or qualified tenant of the computer data center expires, and the department may recapture from the owner, operator or qualified tenant all or part of the tax refund provided directly to the owner or operator or qualified tenant. The department may give special consideration or allow a temporary exemption from recapture of the tax refund if there is extraordinary hardship due to factors beyond the control of the owner or operator or qualified tenant.

Section 32. Section 2909-D of the act is renumbered to read: Section [2909-D] **2918-D**. Guidelines.

The department shall publish guidelines and prescribe forms and procedures as necessary for the purposes of this article.

Section 33. Section 2910-D of the act is renumbered and amended to read:

Section [2910-D] **2919-D**. Confidential information.

Proprietary business information contained in the application form described in section [2903-D] **2912-D** and the written notice described in section [2907-D] **2916-D**, as well as information concerning the identity of a qualified tenant, are confidential and may not be disclosed to the public. The department may disclose the name of a computer data center that has been certified under this article.

Section 34. Section 2911-D of the act is renumbered to read: Section [2911-D] **2920-D**. List of tenants.

An owner or operator of a computer data center shall provide, to the extent permissible under Federal law, the department with a list of qualified tenants, including the commencement and expiration dates of each qualified tenant's agreement to use or occupy part of the computer data center. The list shall be provided to the department annually, upon request by the department.

Section 35. Section 2912-D of the act is renumbered and amended to read:

Section [2912-D] **2921-D. Sale or transfer.**

Except as provided in section [2908-D] **2917-D**, a computer data center retains its certification regardless of a transfer, sale or other disposition, directly or indirectly, of the computer data center.

Section 36. Sections 2913-D and 2914-D of the act are renumbered to read:

Section [2913-D] **2922-D. Application.**

(a) General rule.--An owner, operator or qualified tenant may apply for a tax refund under this article on or before July 30, 2017, and each July 30 thereafter.

(b) Notification.--No later than September 30, 2017, and each September 30 thereafter, the department shall notify each applicant of the amount of tax refund approved by the department.

Section [2914-D] **2923-D. Limitations.**

(a) Total.--The total amount of State tax refunds approved by the department under this article shall not exceed \$7,000,000 in any fiscal year.

(b) Allocation.--If the total amount of tax refunds approved for all applicants exceeds the limitation on the amount of tax refunds in subsection (a) in a fiscal year, the tax refund to be received by each applicant shall be determined as follows:

(1) Divide:

(i) the tax refund approved for the applicant; by

(ii) the total of all tax refunds approved for all applicants.

(2) Multiply:

(i) the amount under subsection (a); by

(ii) the quotient under paragraph (1).

(3) The algebraic form of the calculation under this subsection is:

Taxpayer's tax refund = amount allocated for those tax refunds X (tax refund approved for the applicant/total of all tax refunds approved for all applicants).

Section 37. Article XXIX-D of the act is amended by adding a section to read:

**Section 2924-D. Applicability.**

**Notwithstanding any other provision of this article, the department may not issue a tax refund under this subarticle for the tax imposed upon the sale at retail or use of computer data center equipment purchased after December 31, 2021.**

Section 38. Article XXIX-D of the act is amended by adding a subarticle to read:

#### **SUBARTICLE C**

##### **SALES AND USE TAX EXEMPTION PROGRAM**

**Section 2931-D. Sales and use tax exemption.**

(a) **Sales and use tax.--Beginning January 1, 2022, the tax imposed under Article II shall not be imposed upon the sale at retail or use of computer data center equipment purchased for installation in a certified computer data center, if purchased by any of the following:**

(1) An owner or operator of a computer data center certified under this subarticle.

(2) A qualified tenant of a computer data center certified under this subarticle.

(b) Applicability.--A tax exemption approved under this subarticle shall apply during the qualification period as provided under section 2942-D.

(c) Exclusions.--The following shall not qualify for a tax exemption:

(1) A telecommunications provider's computer data center that does not have retail or wholesale customers being billed or paying for services and does provide a majority of services for internal use or use by the telecommunications provider's subsidiaries.

(2) Computer data center equipment used by the certified computer data center for any of the following purposes:

(i) Generating electricity for resale purposes to a power utility.

(ii) Generating, providing or selling more than 5% of its electricity outside of the certified computer data center.

(3) Laptop computers, handheld devices and motor vehicles for use both inside and outside the computer data center.

Section 2932-D. Application for certification.

(a) Application.--To be considered for a certification, an owner or operator of a computer data center shall submit to the department an application on a form prescribed by the department that includes all of the following:

(1) The owner's or operator's name, address and telephone number.

(2) The address of the site where the computer data center is or will be located, including, if applicable, information sufficient to identify the specific portion of a facility comprising the computer data center.

(3) An affirmation, signed by an authorized executive representing the owner or operator, that the computer data center is expected to satisfy the certification requirements prescribed under section 2935-D.

(b) Acceptance.--The department shall begin accepting applications no later than 60 days after the effective date of this section.

(c) Compliance in reporting.--An owner or operator or qualified tenant eligible for a certification shall comply with all reporting, filing and compliance requirements under this act.

(d) Compliance in tax laws.--No owner or operator or qualified tenant may receive a certification under this subarticle unless that owner or operator or qualified tenant is in full compliance with all State tax laws.

Section 2933-D. Review of application.

(a) General rule.--Within 60 days after receiving a complete and correct application, the department shall review the application and either issue a written certification that the computer data center qualifies for the certification or provide written reasons for its denial.

(b) Deemed approval.--Failure of the department to approve or deny an application that has been acknowledged as received by the department within 60 days after the date the owner or operator of a computer data center submits the application to the department shall constitute certification of the computer

data center, and the department shall issue written certification to the owner or operator within 14 days.  
Section 2934-D. Separation of facilities.

(a) Separate certification.--An owner or operator of a computer data center may separate a facility into one or more computer data centers, which may each receive a separate certification, if each computer data center individually meets the requirements prescribed in section 2935-D.

(b) Limitation.--A portion of a facility or an article of computer data equipment shall not be deemed to be a part of more than one computer data center for certification under this subarticle.

(c) Aggregation.--An owner or operator may aggregate one or more parcels, buildings or condominiums in a facility into a single computer data center for certification under this subarticle if, in the aggregate, the parcels, buildings and condominiums meet the requirements prescribed in section 2935-D.  
Section 2935-D. Eligibility requirements.

(a) General rule.--In order to be certified under this subarticle, an owner or operator of a computer data center must meet all of the following requirements:

(1) On or before the fourth anniversary of certification, the combined investment, in the aggregate, of the owner or operator or qualified tenant of the computer data center must total a minimum of any of the following:

(i) At least \$75,000,000 of new investment if the computer data center is located in a county with a population of 250,000 or fewer individuals and creates 25 new jobs.

(ii) At least \$100,000,000 of new investment if the computer data center is located in a county with a population of more than 250,000 individuals and creates 45 new jobs.

(2) On or before the fourth anniversary of certification, the owner or operator or qualified tenant of a computer data center, in the aggregate, must pay annual compensation of at least \$1,000,000 to employees at the certified computer data center site for each year of the certification after the fourth anniversary of certification.

(b) Prior applications.--A computer data center that has met the eligibility requirements as prescribed under section 2915-D and has, prior to July 1, 2021, been certified under section 2913-D shall be deemed to meet the certification requirements of this section. The certification shall not be revoked, except as provided under section 2917-D, and shall remain in effect for the remainder of the qualification period.

(c) Limitation.--The department may not certify any computer data center under this subarticle after December 31, 2032.

(d) Definition.--As used in this section, the term "new investment" means construction, expansion or build out of data center space at either a new or an existing computer data center on or after January 1, 2022, and the purchase and installation of computer data center equipment, except for items described under paragraph (4) of the definition of "computer data center equipment" in section 2901-D.

Section 2936-D. Notification and records.

(a) Requirements satisfied.--On or before the fourth anniversary of the certification of a computer data center, the owner or operator of the computer data center shall notify the department in writing whether the computer data center for which the certification is requested has satisfied the requirements prescribed under section 2935-D.

(b) Records.--The owner or operator or qualified tenant shall:

(1) Maintain detailed records of all investments created by the computer data center, including costs of buildings and computer data center equipment and all tax exemptions received by the owner or operator or qualified tenant.

(2) Maintain purchase journals for examination by the department.

Section 2937-D. Revocation of certification.

(a) Revocation.--If the department determines that the requirements of section 2935-D have not been satisfied, the department may revoke the certification of a computer data center.

(b) Appeal.--The owner or operator of the computer data center may appeal the revocation. Appeals filed under this section shall be governed by Article II.

(c) Recapture.--If certification is revoked under this section, the qualification period of any owner or operator or qualified tenant of the computer data center shall expire and the department may recapture from the owner or operator or qualified tenant all or part of the tax exemption received by the owner or operator or qualified tenant under section 2942-D. The department may give special consideration or allow a temporary exemption from recapture of the tax exemption if there is extraordinary hardship due to factors beyond the control of the owner or operator or qualified tenant. The department may require the owner or operator or qualified tenant to file appropriate amended tax returns in order to reflect any recapture of the tax exemption.

(d) Limitation on assessment.--Notwithstanding the limitation on assessment and collection in section 258, the department shall assess any tax determined not to be properly exempted under this subarticle within five years from the date an owner or operator or qualified tenant of a computer data center purchases property exempt from a tax. A taxpayer may consent to an extension of the period as set forth in section 261.

Section 2938-D. Guidelines.

The department shall publish guidelines and prescribe forms and procedures as necessary for the purposes of this article.

Section 2939-D. Confidential information.

Proprietary business information contained in the application form described under section 2932-D and the written notice described under section 2936-D, as well as information concerning the identity of a qualified tenant, shall be confidential and may not be disclosed to the public. The department may disclose the name of a computer data center that has been certified under this subarticle.

Section 2940-D. List of tenants.

An owner or operator of a certified computer data center shall provide, to the extent permissible under Federal law, the department with a list of qualified tenants, including the commencement and expiration dates of each qualified tenant's agreement to use or occupy part of the certified computer data center. The list shall be provided to the department annually, upon request by the department.

Section 2941-D. Sale or transfer.

Except as provided under section 2937-D, a computer data center retains its certification regardless of a transfer, sale or other disposition, directly or indirectly, of the computer data center.

Section 2942-D. Certificate of exemption.

(a) General rule.--A qualified owner or operator or qualified tenant of a computer data center certified under this subarticle may submit for a sales and use tax certificate of exemption in a manner prescribed by the department on or before October 1, 2021, and renew each October 1 thereafter. The following shall apply:

(1) The owner or operator or qualified tenant of a certified computer data center eligible for a sales and use tax certificate of exemption shall comply with all reporting, filing and compliance requirements under this act.

(2) No owner or operator or qualified tenant may receive a sales and use tax certificate of exemption under this subarticle unless that owner or operator or qualified tenant is in full compliance with all State tax laws.

(b) Notification.--No later than 60 days after the submission under subsection (a) for a sales and use tax certificate of exemption, the department shall issue a sales and use tax certificate of exemption to each applicant approved by the department.

(c) Exempt purchases.--The owner or operator or qualified tenant of a certified computer data center shall prepare and deliver a properly executed sales and use tax certificate of exemption to a vendor from which the owner or operator or qualified tenant purchases exempt computer data center equipment.

Section 39. Section 3003.9(a) of the act is amended to read:

Section 3003.9. Bad Checks; Electronic Funds Transfers Not Credited Upon Transmission; Additions to Tax.--(a) If any check in payment of any amount receivable under the laws of this Commonwealth administered by the department is not paid upon presentment, or any electronic funds transfer as payment of any amount receivable under the laws of this Commonwealth administered by the department is not credited upon transmission, in addition to any interest or penalties provided by law, the department shall charge the person who tendered the check or authorized the electronic transmission an addition to tax equal to ten per cent of the face amount of the check or electronic funds transfer, plus interest and protest fees, provided that the addition imposed by this section shall not exceed [one thousand dollars (\$1,000)] **one hundred dollars (\$100)** nor be less than twenty-five dollars (\$25).

\* \* \*

Section 40. The following apply:

(1) The addition of section 204(74) and (75) of the act shall apply to sales at retail or uses after December 31, 2021.

(2) The addition of section 303(a.10) of the act shall apply to taxable years beginning after December 31, 2020.

(3) The addition of sections 332.1 and 352(k) of the act shall apply to payments made after December 31, 2021.

(4) The amendment of section 407.6(a)(5) of the act shall apply to taxable years beginning after December 31, 2020.

(5) The amendment of section 1907-E(a) of the act shall apply to fiscal years beginning after June 30, 2021.

Section 41. This act shall take effect as follows:

(1) The amendment or addition of the definitions of "concert tour equipment," "Pennsylvania live events industry," "personal protective equipment," "recipient," "streaming performance," "taxpayer," "tour," "tour expense" and "venue" in section 1772-D and sections 1777-D(a) and (b)

and 1782-D of the act shall take effect July 1, 2021, or immediately, whichever is later.

(2) The following shall take effect in 30 days:

(i) The amendment or addition of Article XVII-A.1 heading, the definitions of "administering agency," "applicant," "application," "broker," "person," "program year," "recipient," "tax benefit," "tax credit," "taxpayer," "transfer application" and "transferrable tax credit" in section 1701-A.1, sections 1702-A.1, 1703-B(a) and (c), 1704-B(a) and (b) and 1711-B, the definition of "multifilm" in section 1711-D and sections 1712-D(b)(7.1), 1716.1-D(a)(4), 1906-F(b) and (d), 1908-F, 2702(a.2), 2703(a)(2.2) and (2.3) and (b.1) and 2704(d.1)(3) of the act.

(ii) The addition of sections 1703-A.1, 1704-A.1, 1705-A.1, 1707-A.1, 1708-A.1 and 1709-A.1 of the act.

(3) The amendment of section 204(67) and (68) of the act shall take effect in 60 days.

(4) The amendment of section 3003.9(a) of the act shall take effect in 120 days.

(5) The addition of section 1706-A.1 of the act shall take effect in 180 days.

(6) The remainder of this act shall take effect immediately.

APPROVED--The 30th day of June, A.D. 2021.

TOM WOLF