

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2457 Session of  
1990

INTRODUCED BY BOYES, TRELLO, J. L. WRIGHT, COLAFELLA, HECKLER,  
MELIO, TANGRETTI, JOHNSON, CARLSON, HERMAN, ALLEN, NAHILL,  
SERAFINI, SEMMEL, RAYMOND, TELEK, JOSEPHS, BELARDI,  
SCRIMENTI, GODSHALL AND ROBBINS, APRIL 17, 1990

REFERRED TO COMMITTEE ON FINANCE, APRIL 17, 1990

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," providing for a Pennsylvania energy facility tax  
11 credit.

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

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
15 the Tax Reform Code of 1971, is amended by adding an article to  
16 read:

17 ARTICLE XXI

18 PENNSYLVANIA ENERGY FACILITY TAX CREDIT

19 Section 2101. Declaration of Public Policy.--The General  
20 Assembly of the Commonwealth of Pennsylvania hereby declares  
21 that:

1     (a) Continued growth in demand for nonrenewable energy forms  
2     poses a serious and immediate, as well as future, problem. It is  
3     essential that future generations not be left a legacy of  
4     vanished or depleted resources, resulting in massive  
5     environmental, social and financial impact.

6     (b) It is the goal of the Commonwealth of Pennsylvania to  
7     promote the efficient use of energy resources and to develop  
8     permanently sustainable energy resources. The need exists for  
9     comprehensive State leadership in energy production,  
10    distribution and utilization.

11    (c) In the interest of public health, safety and welfare, it  
12    is hereby declared to be the public policy of the Commonwealth  
13    to encourage the conservation of electricity, petroleum and  
14    natural gas by providing a tax credit for Pennsylvania  
15    facilities that conserve energy resources and meet energy  
16    requirements through the use of renewable resources.

17    Section 2102. Definitions.--The following words, terms and  
18    phrases, when used in this article, shall have the meanings  
19    ascribed to them in this section, except where the context  
20    clearly indicates a different meaning:

21    "Business firm." Any business entity authorized to do  
22    business in the Commonwealth and subject to taxes imposed by  
23    Article IV, VI, VII, VIII, IX, X, XIII or XV.

24    "Credit." The Pennsylvania energy facility tax credit.

25    "Energy facility." Any capital investment for which the  
26    first year energy savings yields a simple payback period of  
27    greater than one year. An energy facility includes:

28    (1) Any land, structure, building, installation, excavation,  
29    machinery, equipment or device, or any addition to,  
30    reconstruction of or improvement of, land or an existing

1 structure, building, installation excavation, machinery,  
2 equipment or device necessarily acquired, erected, constructed  
3 or installed by any person in connection with the conduct of a  
4 trade or business and actually used in the processing or  
5 utilization of renewable energy resources to:

6 (i) replace a substantial part or all of an existing use of  
7 electricity, petroleum or natural gas;

8 (ii) provide the initial use of energy where electricity,  
9 petroleum or natural gas would have been used;

10 (iii) generate electricity to replace an existing source of  
11 electricity or to provide a new source of electricity for sale  
12 by or use in the trade or business; or

13 (iv) perform a process that obtains energy resources from  
14 material that would otherwise be solid waste as defined in the  
15 act of July 7, 1980 (P.L.380, No.97), known as the "Solid Waste  
16 Management Act."

17 (2) Any addition to, reconstruction of or improvement of  
18 land or an existing structure, building, installation,  
19 excavation, machinery, equipment or device necessarily acquired,  
20 erected, constructed or installed by any person in connection  
21 with the conduct of a trade or business in order to  
22 substantially reduce the consumption of purchased energy.

23 (3) A necessary feature of a new commercial building or  
24 multiple unit dwelling that causes that building or dwelling to  
25 exceed an energy performance standard established pursuant to  
26 the act of December 15, 1980 (P.L.1203, No.222), known as the  
27 "Building Energy Conservation Act."

28 (4) The replacement of an electric motor with another  
29 electric motor that substantially reduces the consumption of  
30 electricity.

1 "Facility." An energy facility or a recycling facility.

2 "Qualified cost." The capital costs and expenses incurred in  
3 the acquisition, erection, construction and installation of a  
4 facility.

5 "Recycling facility." Equipment used by a trade or business  
6 solely for recycling, including:

7 (1) equipment used solely for hauling and refining used oil;

8 (2) new vehicles or modifications to existing vehicles used  
9 solely to transport used recyclable materials that cannot be  
10 used further in their present form or location, such as glass,  
11 metal, paper, aluminum, rubber and plastic;

12 (3) trailers, racks or bins that are used for hauling used  
13 recyclable materials and are added to or attached to existing  
14 waste collection vehicles; and

15 (4) any equipment used solely for processing recyclable  
16 materials, such as bailers, flatteners, crushers, separators and  
17 scales.

18 The term shall not include equipment used for transporting or  
19 processing scrap materials that are recycled as a part of the  
20 normal operation of a trade or business.

21 "Renewable energy resource." Includes, but it not limited  
22 to, straw, forest slash, wood waste or other wastes from farm or  
23 forest land, industrial waste, solar energy, wind power, water  
24 power or geothermal energy. The term does not include a  
25 hydroelectric or geothermal electric generating facility larger  
26 than one megawatt of installed capacity unless the facility  
27 qualifies as a research, development or demonstration facility.

28 Section 2103. Authorization of Credit.--Every business firm  
29 which incurs qualified costs in the acquisition, erection,  
30 construction and installation of an energy facility or recycling

1 facility in this Commonwealth shall qualify for the Pennsylvania  
2 energy facility tax credit. A business firm which qualifies for  
3 the credit as provided for in this article may apply the credit  
4 against any tax due under Article IV, VI, VII, VIII, IX, X, XIII  
5 or XV.

6 Section 2104. Calculation of Tax Credit.--The amount of the  
7 tax credit available to a business firm which qualifies for the  
8 credit as provided in this article shall be in an amount equal  
9 to ten per cent of the qualified costs of the facility incurred  
10 by the business firm, but shall not exceed the tax liability of  
11 the taxpayer. The credit must be applied against taxes due in  
12 the current tax year. The credit may not be carried back to  
13 prior years, nor may it be carried forward to future tax years.

14 Section 2105. Powers and Duties.--(a) The Secretary of  
15 Revenue shall have the power and it shall be his duty to:

16 (1) promulgate any rules and regulations which may be  
17 required to implement this article;

18 (2) publish as a notice in the Pennsylvania Bulletin, no  
19 later than November 30, 1990, forms upon which taxpayers may  
20 apply for the tax credit authorized by this article; and

21 (3) within five (5) months after the close of any calendar  
22 year during which tax credits granted pursuant to this article  
23 were used, furnish to the members of the General Assembly an  
24 annual report providing as to each business firm which used tax  
25 credits during the preceding calendar year pursuant to this  
26 article, the employer's name, address, standard industrial  
27 classification code and the amount of tax credits granted.

28 (b) The provisions of section 731 of the act of April 9,  
29 1929 (P.L.343, No.176), known as "The Fiscal Code," section  
30 408(b) of this act and any other provision of law presenting the

1 disclosure of information required pursuant to subsection (a),  
2 shall not apply when the information is divulged for the  
3 purposes of subsection (a) of this section.

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