

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 784 Session of 2003

INTRODUCED BY FERLO, STACK, MELLOW, KUKOVICH, TARTAGLIONE,
WAGNER, LAVALLE, BOSCOLA, COSTA, HUGHES, KASUNIC, KITCHEN,
LOGAN, STOUT, C. WILLIAMS, FUMO, WOZNIAK, MUSTO, SCHWARTZ,
O'PAKE, A. WILLIAMS AND ORIE, JUNE 3, 2003

REFERRED TO FINANCE, JUNE 3, 2003

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," further providing, in research and development
11 tax credits, for carrying and assigning credits and for
12 limitation on credits.

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

15 Section 1. Sections 1704-B and 1709-B of the act of March 4,
16 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, added
17 May 7, 1997 (P.L.85, No.7), are amended to read:

18 Section 1704-B. Carryover, Carryback, Refund and Assignment
19 of Credit.--(a) The amount of the research and development tax
20 credit that a taxpayer may use against any one qualified tax
21 liability during any year may not exceed [fifty] seventy-five
22 per cent of such qualified tax liability for that taxable year.

1 If the taxpayer cannot use the entire amount of the research and
2 development tax credit for the taxable year in which the
3 research and development tax credit is first approved, then the
4 excess may be carried over to succeeding taxable years and used
5 as a credit against the qualified tax liability of the taxpayer
6 for those taxable years. Each time that the research and
7 development tax credit is carried over to a succeeding taxable
8 year, it is to be reduced by the amount that was used as a
9 credit during the immediately preceding taxable year. The
10 research and development tax credit provided by this article may
11 be carried over and applied to succeeding taxable years for no
12 more than fifteen taxable years following the first taxable year
13 for which the taxpayer was entitled to claim the credit.

14 (b) A research and development tax credit approved by the
15 department for Pennsylvania qualified research and development
16 expense in a taxable year first shall be applied against the
17 taxpayer's qualified tax liability for the current taxable year
18 as of the date on which the credit was approved before the
19 research and development tax credit is applied against any tax
20 liability under subsection (a).

21 (c) A taxpayer is not entitled to carry back[,] or obtain a
22 refund of [or assign] an unused research and development tax
23 credit.

24 (d) A taxpayer, upon application to and approval by the
25 Department of Community and Economic Development, may sell or
26 assign, in whole or in part, a research and development tax
27 credit granted to the taxpayer under this article if no claim
28 for allowance of the credit has been filed. The purchaser or
29 assignee shall claim the credit in the taxable year in which the
30 purchase or assignment is made. The purchaser or assignee may

1 not carryover, carryback, obtain a refund of or assign the tax
2 credit. The purchaser or assignee shall notify the department of
3 the derivative basis of the tax credit in compliance with
4 procedures specified by the department.

5 Section 1709-B. Limitation on Credits.--(a) The total
6 amount of credits approved by the department shall not exceed
7 [fifteen million dollars (\$15,000,000)] sixty million dollars
8 (\$60,000,000) in any fiscal year. Of that amount, [three million
9 dollars (\$3,000,000)] twelve million dollars (\$12,000,000) shall
10 be allocated exclusively for small businesses. However, if the
11 total amounts allocated to either the group of applicants
12 exclusive of small businesses or the group of small business
13 applicants is not approved in any fiscal year, the unused
14 portion will become available for use by the other group of
15 qualifying taxpayers.

16 (b) If the total amount of research and development tax
17 credits applied for by all taxpayers, exclusive of small
18 businesses, exceeds the amount allocated for those credits, then
19 the research and development tax credit to be received by each
20 applicant shall be the product of the allocated amount
21 multiplied by the quotient of the research and development tax
22 credit applied for by the applicant divided by the total of all
23 research and development credits applied for by all applicants,
24 the algebraic equivalent of which is:

25 taxpayer's research and development tax credit=amount
26 allocated for those credits X (research and development
27 tax credit applied for by the applicant/total of all
28 research and development tax credits applied for by all
29 applicants).

30 (c) If the total amount of research and development tax

1 credits applied for by all small business taxpayers exceeds the
2 amount allocated for those credits, then the research and
3 development tax credit to be received by each small business
4 applicant shall be the product of the allocated amount
5 multiplied by the quotient of the research and development tax
6 credit applied for by the small business applicant divided by
7 the total of all research and development credits applied for by
8 all small business applicants, the algebraic equivalent of which
9 is:

10 taxpayer's research and development tax credit=amount
11 allocated for those credits X (research and development
12 tax credit applied for by the small business/total of all
13 research and development tax credits applied for by all
14 small business applicants).

15 Section 2. The amendment of section 1709-B(a) of the act
16 shall apply to taxable years beginning after December 31, 2002.

17 Section 3. This act shall take effect as follows:

18 (1) The following provisions shall take effect
19 immediately:

20 (i) Section 2 of this act.

21 (ii) This section.

22 (2) The following provisions shall take effect July 1,
23 2003, or immediately, whichever is later:

24 (i) The amendment of section 1704-B of the act.

25 (ii) The amendment of section 1709-B of the act.