

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 220 Session of
2005

INTRODUCED BY REED, TURZAI, HUTCHINSON, BOYD, ALLEN, ARMSTRONG,
BAKER, BALDWIN, BARRAR, BUNT, CAPPELLI, CLYMER, CRAHALLA,
CREIGHTON, DALLY, ELLIS, FAIRCHILD, FEESE, FRANKEL, GEIST,
GEORGE, GINGRICH, GOODMAN, HARPER, HERMAN, HERSHEY,
HICKERNELL, KENNEY, KILLION, LEH, MCGILL, MCILHATTAN,
METCALFE, S. MILLER, O'NEILL, PICKETT, REICHLEY, SAYLOR,
SCHRODER, SEMMEL, STEIL, R. STEVENSON, T. STEVENSON,
E. Z. TAYLOR, THOMAS, TIGUE, WANSACZ, WASHINGTON, WILT,
WRIGHT AND YOUNGBLOOD, FEBRUARY 8, 2005

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MARCH 29, 2005

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," EXCLUDING THE PURCHASE PRICE OF ELECTRIC <—
11 VEHICLES, HYBRID ELECTRIC VEHICLES AND ZERO EMISSION VEHICLES
12 FROM THE SALES AND USE TAX; PROVIDING FOR CONTRIBUTIONS TO
13 MILITARY FAMILY RELIEF THROUGH INDIVIDUAL INCOME TAX RETURNS;
14 AND establishing a career development tax credit.

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

17 ~~Section 1. The act of March 4, 1971 (P.L.6, No.2), known as~~ <—
18 ~~the Tax Reform Code of 1971, is amended by adding an article to~~
19 ~~read:~~

20 SECTION 1. SECTION 204 OF THE ACT OF MARCH 4, 1971 (P.L.6, <—

NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, IS AMENDED BY
ADDING A CLAUSE TO READ:

SECTION 204. EXCLUSIONS FROM TAX.--THE TAX IMPOSED BY
SECTION 202 SHALL NOT BE IMPOSED UPON ANY OF THE FOLLOWING:

* * *

(47.1) (I) THE PURCHASE PRICE OF THE SALE AT RETAIL OR USE
OF ELECTRIC VEHICLES, HYBRID ELECTRIC VEHICLES AND ZERO EMISSION
VEHICLES AS DEFINED IN 75 PA.C.S. § 102 (RELATING TO
DEFINITIONS). THE DEPARTMENT SHALL PROMULGATE RULES AND
REGULATIONS TO ENFORCE THIS EXEMPTION.

(II) THE SALE AT RETAIL OR USE OF POWER UNITS FOR VEHICLES
THAT ARE EXEMPT UNDER SUBCLAUSE (I).

(III) THIS CLAUSE SHALL EXPIRE FIVE YEARS FROM THE EFFECTIVE
DATE OF THIS CLAUSE.

* * *

SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

SECTION 315.8. CONTRIBUTIONS TO MILITARY FAMILY RELIEF.--(A)
THE DEPARTMENT SHALL PROVIDE A SPACE ON THE PENNSYLVANIA
INDIVIDUAL INCOME TAX RETURN FORM WHEREBY AN INDIVIDUAL MAY
VOLUNTARILY DESIGNATE A CONTRIBUTION OF ANY AMOUNT DESIRED TO BE
UTILIZED FOR MILITARY FAMILY RELIEF THROUGH THE DEPARTMENT OF
MILITARY AND VETERANS AFFAIRS.

(B) THE AMOUNT SO DESIGNATED ON THE INDIVIDUAL INCOME TAX
RETURN FORM SHALL BE DEDUCTED FROM THE TAX REFUND TO WHICH THE
INDIVIDUAL IS ENTITLED AND SHALL NOT CONSTITUTE A CHARGE AGAINST
THE INCOME TAX REVENUES DUE TO THE COMMONWEALTH.

(C) THE DEPARTMENT SHALL DETERMINE ANNUALLY THE TOTAL AMOUNT
DESIGNATED UNDER THIS SECTION, LESS REASONABLE ADMINISTRATIVE
COSTS, AND SHALL REPORT THE AMOUNT TO THE STATE TREASURER WHO
SHALL TRANSFER THE AMOUNT FROM THE GENERAL FUND TO THE MILITARY

1 FAMILY RELIEF ACCOUNT, A RESTRICTED ACCOUNT WHICH IS HEREBY
2 ESTABLISHED WITHIN THE GENERAL FUND FOR THE PURPOSE OF PROVIDING
3 FOR MILITARY FAMILY RELIEF THROUGH THE DEPARTMENT OF MILITARY
4 AND VETERANS AFFAIRS.

5 (D) (1) THE DEPARTMENT SHALL PROVIDE ADEQUATE INFORMATION
6 CONCERNING THE CHECKOFF FOR MILITARY FAMILY RELIEF IN ITS
7 INSTRUCTIONS WHICH ACCOMPANY PENNSYLVANIA INDIVIDUAL INCOME TAX
8 RETURN FORMS. THE INFORMATION CONCERNING THE CHECKOFF SHALL
9 INCLUDE THE LISTING OF AN ADDRESS FURNISHED BY THE DEPARTMENT OF
10 MILITARY AND VETERANS AFFAIRS TO WHICH CONTRIBUTIONS MAY BE SENT
11 BY TAXPAYERS WISHING TO CONTRIBUTE TO THIS EFFORT BUT WHO DO NOT
12 RECEIVE REFUNDS.

13 (2) THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS SHALL
14 CONDUCT A PUBLIC INFORMATION CAMPAIGN ON THE AVAILABILITY OF
15 THIS OPPORTUNITY TO PENNSYLVANIA TAXPAYERS AND DISTRIBUTE THESE
16 FUNDS AS MILITARY FAMILY RELIEF AT THE DISCRETION OF THE
17 ADJUTANT GENERAL TO MEMBERS AND FAMILIES OF THE PENNSYLVANIA
18 NATIONAL GUARD.

19 (E) THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS SHALL
20 REPORT ANNUALLY TO THE RESPECTIVE COMMITTEES OF THE SENATE AND
21 THE HOUSE OF REPRESENTATIVES WHICH HAVE JURISDICTION OVER THE
22 PENNSYLVANIA NATIONAL GUARD ON THE AMOUNT RECEIVED FROM THE
23 CHECKOFF FOR MILITARY FAMILY RELIEF AND HOW THE FUNDS WERE
24 UTILIZED.

25 SECTION 3. THE ACT IS AMENDED BY ADDING AN ARTICLE TO READ:

26 ARTICLE XVII-D

27 CAREER DEVELOPMENT TAX CREDIT

28 Section 1701-D. Short title of article.

29 This article shall be known and may be cited as the Career
30 Development Tax Credit Act.

1 Section 1702-D. Definitions.

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

5 "Career development tax credit" or "tax credit." The credit
6 provided under this article.

7 "Department." The Department of Revenue of the Commonwealth.

8 "Nonqualified individual."

9 (1) An individual who is one of the following:

10 (i) an officer of a business entity;

11 (ii) a member or shareholder owning more than 5% of
12 the voting power or value of all classes of stock of a
13 business entity; or

14 (iii) an individual who, for the preceding taxable
15 year:

16 (A) received compensation from an employer in
17 excess of the Federal limitation, after adjustment by
18 the Secretary of the United States Treasury for
19 inflation, set forth in section 414(q)(1)(B) of the
20 Internal Revenue Code of 1986 (Public Law 99-514, 26
21 U.S.C. § 414(q)(1)(B); or

22 (B) is in the group consisting of the top 20% of
23 all full-time employees of the employer with at least
24 three years of service when ranked on the basis of
25 compensation paid during the taxable year.

26 (2) A partner or self-employed individual.

27 (3) A physician.

28 (4) A veterinarian.

29 (5) An attorney.

30 (6) An executive.

1 "Nonqualified training expense." All of the following:

2 (1) Expenditures either reimbursed or subject to
3 reimbursement through any Federal or State training program.

4 (2) Federal, State or local grants or other payments to
5 provide training or retraining.

6 (3) Capital expenses.

7 (4) Equipment, materials and software used beyond the
8 training program.

9 (5) Expenses for out-of-State travel.

10 (6) Convention or conference expenses, unless directly
11 related to a qualified career development training program.

12 "Qualified career development training program." A training
13 program that is certified by the Department of Labor and
14 Industry as meeting recognized industry standards, designed to
15 meet the special requirements of an employer, and conducted with
16 a commitment by the employer to continue to employ an individual
17 on successful completion of the training. The term does not
18 include the following:

19 (1) Any program in which 50% or more of the employee's
20 time is spent on activities other than those directly related
21 to the training program.

22 (2) An executive training program.

23 (3) A personal enrichment program.

24 (4) A general health program.

25 (5) A seminar or conference unless directly related to
26 the employee's job requirements.

27 "Qualified employee." A Commonwealth resident who is
28 employed in this Commonwealth by a taxpayer and who averages at
29 least 30 hours of work per week at the time training commences
30 and for a period of 12 months following the employee's

1 completion of the qualified career development program. The term
2 excludes an individual who is a nonqualified individual.

3 "Qualified tax liability." The liability for taxes imposed
4 under Article III, ~~IV or VI~~ (RELATING TO PERSONAL INCOME TAX), <—
5 IV (RELATING TO CORPORATE NET INCOME TAX) OR VI (RELATING TO
6 CAPITAL STOCK--FRANCHISE TAX). The term includes the liability
7 for taxes imposed under Article III on a shareholder of a
8 Pennsylvania S corporation.

9 "Qualified training expense." Wages paid to a qualified
10 employee during normal working hours while participating in a
11 qualified career development training program. The term includes
12 preskill and postskill assessment, direct costs of instructors,
13 instructional materials, instructional supplies, instructional
14 media, necessary training equipment, tuition reimbursement,
15 travel costs to and from class and other instructional
16 activities. The term excludes nonqualified training expense.

17 "Secretary." The Secretary of Revenue of the Commonwealth.

18 "Taxpayer." An entity that is engaged in the business of
19 manufacturing and subject to tax under Article III, ~~IV or VI~~ <—
20 (RELATING TO PERSONAL INCOME TAX), IV (RELATING TO CORPORATE NET <—
21 INCOME TAX) OR VI (RELATING TO CAPITAL STOCK--FRANCHISE TAX).

22 The term includes the shareholder of a Pennsylvania S
23 corporation that receives a career development tax credit or the
24 member of a limited liability company that receives a career
25 development tax credit.

26 Section 1703-D. Tax credit for qualified training expenses.

27 (a) General rule.--A taxpayer who incurs qualified training
28 expenses in a taxable year may apply for a career development
29 tax credit as provided in this article. By September 15, a
30 taxpayer must submit an application to the department for

1 qualified training expense incurred in the taxable year that
2 ended in the prior calendar year.

3 (b) Amount of tax credit.--A taxpayer that is qualified
4 under subsection (a) shall receive a career development tax
5 credit for the taxable year in the amount of 25% of the
6 taxpayer's total qualified training expense for the taxable
7 year.

8 (c) Notification of approved tax credit.--By December 15 of
9 the calendar year following the close of the taxable year during
10 which the Pennsylvania qualified training expense was incurred,
11 the department shall notify the taxpayer of the amount of the
12 taxpayer's career development tax credit approved by the
13 department.

14 Section 1704-D. Carryover, carryback, refund and assignment of
15 tax credit.

16 (a) General rule.--If the taxpayer cannot use the entire
17 amount of the career development tax credit for the taxable year
18 in which the career development tax credit is first approved,
19 then the excess may be carried over to succeeding taxable years
20 and used as a credit against the qualified tax liability of the
21 taxpayer for those taxable years. Each time that the career
22 development tax credit is carried over to a succeeding taxable
23 year, it is to be reduced by the amount that was used as a
24 credit during the immediately preceding taxable year. The career
25 development tax credit provided by this article may be carried
26 over and applied to succeeding taxable years for no more than 15
27 taxable years following the first taxable year for which the
28 taxpayer was entitled to claim the credit.

29 (b) Taxable year in which tax credit applied.--A career
30 development tax credit approved by the department for qualified

training expenses 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 before the career development tax credit is applied against any tax liability under subsection (a).

(c) Limitation.--A taxpayer is not entitled to carry back or obtain a refund of an unused career development tax credit.

Section 1705-D. Time limitations.

A taxpayer is not entitled to a career development tax credit for qualified training expenses incurred in taxable years ending after December 31, 2009.

Section 1706-D. Limitation on tax credits.

(a) General rule.--The total amount of career development tax credits approved by the department shall not exceed \$20,000,000 in any fiscal year.

(b) Proration required.--If the total amount of career development tax credits applied for by all taxpayers exceeds the amount allocated for those credits, then the career development tax credit to be received by each applicant shall be prorated by the department among all applicants who have qualified for the tax credit.

Section 1707-D. Pennsylvania S corporation shareholder pass-through.

(a) General rule.--If a Pennsylvania S corporation does not have an eligible tax liability against which the career development tax credit may be applied, a shareholder of the Pennsylvania S corporation is entitled to a tax credit equal to the tax credit determined for the Pennsylvania S corporation for the taxable year multiplied by the percentage of the Pennsylvania S corporation's distributive income to which the

1 shareholder is entitled.

2 (b) Operation of tax credit.--The career development tax
3 credit provided under subsection (a) is in addition to any
4 career development tax credit to which a shareholder of a
5 Pennsylvania S corporation is otherwise entitled under this
6 article. However, a Pennsylvania S corporation and a shareholder
7 of a Pennsylvania S corporation may not claim a tax credit for
8 the same qualified training expense.

9 Section 1708-D. Pennsylvania limited liability company member
10 pass-through.

11 (a) General rule.--If a limited liability company does not
12 have an eligible tax liability against which the career
13 development tax credit may be applied, a member of the limited
14 liability company is entitled to a tax credit equal to the tax
15 credit determined for the limited liability company for the
16 taxable year multiplied by the percentage of the limited
17 liability company's distributive income to which the member is
18 entitled.

19 (b) Operation of tax credit.--The career development tax
20 credit under subsection (a) is in addition to any career
21 development tax credit to which a member of a limited liability
22 company is otherwise entitled under this article. A limited
23 liability company and a member of a limited liability company
24 may not claim a tax credit for the same qualified training
25 expense.

26 Section 1709-D. Recapture of credit.

27 (a) General rule.--If an employee for whom a credit has been
28 awarded does not maintain continuous employment with the
29 taxpayer for a period of 12 months following the completion of
30 the qualified career development training program, the

department shall recapture any credit awarded to the taxpayer
for the qualified training expense of that employee.

(b) Nonapplicability.--This section shall not apply if the
employee:

(1) is deceased;

(2) is disabled;

(3) voluntarily leaves employment; or

(4) is discharged for cause as certified by the

Department of Labor and Industry.

Section 1710-D. Report to General Assembly.

The secretary shall submit an annual report to the General
Assembly indicating the effectiveness of the career development
tax credit no later than March 15 following the year in which
the tax credits were approved. The report shall include the
names of all taxpayers utilizing the tax credit as of the date
of the report and the amount of tax 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 tax credit.

Section 1711-D. Termination.

The department shall not approve a career development tax
credit for taxable years ending after December 31, 2009.

Section 1712-D. Regulations.

The secretary shall promulgate regulations necessary for the
implementation and administration of this article.

~~Section 2. This act shall apply to taxable years commencing
after December 31, 2004.~~

~~Section 3. This act shall take effect immediately.~~

1 SECTION 4. THIS ACT SHALL APPLY AS FOLLOWS:

<—

2 (1) THE ADDITION OF SECTION 315.8 OF THE ACT SHALL APPLY
3 TO TAX RETURNS FILED FOR TAXABLE YEARS COMMENCING AFTER
4 DECEMBER 31, 2004.

5 (2) THE ADDITION OF ARTICLE XVII-D OF THE ACT SHALL
6 APPLY TO TAXABLE YEARS COMMENCING AFTER DECEMBER 31, 2004.

7 SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

8 (1) THE AMENDMENT OF SECTION 204 OF THE ACT SHALL TAKE
9 EFFECT IN 60 DAYS.

10 (2) THE ADDITION OF SECTION 315.8 AND ARTICLE XVII-D OF
11 THE ACT SHALL TAKE EFFECT IMMEDIATELY.

12 (3) SECTION 4 OF THIS ACT SHALL TAKE EFFECT IMMEDIATELY.

13 (4) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.