

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2378 Session of
2006

INTRODUCED BY FLEAGLE, MUNDY, CALTAGIRONE, WATSON, HERMAN,
PICKETT, J. TAYLOR, B. SMITH, LaGROTTA, TURZAI, CRAHALLA,
SOLOBAY, McCALL, WHEATLEY, WALKO, MARKOSEK, SCAVELLO, RAPP,
HERSHEY, BOYD, WRIGHT, GOODMAN, GOOD, CAPPELLI, SAYLOR,
HARPER, TRUE, SHAPIRO, BARRAR, HARHART, S. MILLER, SANTONI,
HESS, ROSS, RUBLEY, CORNELL, ALLEN, SIPTROTH, PHILLIPS,
SEMMEL, REICHLEY, MACKERETH, PALLONE, GEIST AND MICOZZIE,
JANUARY 24, 2006

REFERRED TO COMMITTEE ON FINANCE, JANUARY 24, 2006

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 tax credit for employer child
11 care.

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 XVII-D

18 EMPLOYER CHILD CARE TAX CREDIT

19 Section 1701-D. Scope.

1 This article relates to employer child care tax credit.

2 Section 1702-D. Definitions.

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

6 "Child day care expense." Expenses paid to provide care in
7 lieu of parental care given for part of the 24-hour day to
8 children under 16 years of age, away from their own homes, but
9 does not include child day care furnished in places of worship
10 during religious services.

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

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

13 (1) A partnership, limited partnership, limited
14 liability company, business trust or other unincorporated
15 entity that for Federal income tax purposes is taxable as a
16 partnership.

17 (2) A Pennsylvania S corporation.

18 "Qualified tax liability." The liability for taxes imposed
19 under Article III, IV or VI. The term shall include the
20 liability for taxes imposed under Article III on an owner of a
21 pass-through entity.

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

23 "Small business." An employer who, on at least 50% of its 18
24 working days during the taxable year, employed fewer than 500
25 employees.

26 "Tax credit." The employer child care tax credit authorized
27 under this article.

28 "Taxpayer." A small business subject to tax under Article
29 III, IV or VI. The term shall include the shareholder, owner or
30 member of a pass-through entity that receives a tax credit.

Section 1703-D. Employer credit for child care.

(a) Application.--A taxpayer who incurs child day care expense in a taxable year may apply for a tax credit as provided in this article. By September 15 of each year, a taxpayer must submit an application to the department for child day care expense incurred in the taxable year that ended in the prior calendar year.

(b) Amount.--A taxpayer that is qualified under subsection (a) shall receive a tax credit for the taxable year in the amount of 20% of the child day care expense.

(c) Notification.--By December 15 of the calendar year following the close of the taxable year during which the child day care expense was incurred, the department shall notify the taxpayer of the amount of the taxpayer's tax credit approved by the department.

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

(a) Carryover.--If the taxpayer cannot use the entire amount of the tax credit for the taxable year in which the 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 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 tax credit may be carried over and applied to succeeding taxable years for no more than 15 taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(b) Application.--An employer child care tax credit approved

by the department for child day care 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 before the tax credit is applied against any tax liability under subsection (a).

(c) Unused credit.--A taxpayer is not entitled to assign, carry back or obtain a refund of an unused tax credit.

Section 1705-D. Time limitations.

A taxpayer is not entitled to a tax credit for child day care expenses incurred in taxable years ending after December 31, 2020.

Section 1706-D. Limitation on credits.

(a) Total amount.--The total amount of tax credits approved by the department shall not exceed \$10,000,000 in any fiscal year.

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

(c) Protection among small business applicants.--If the total amount of tax credits applied for by all taxpayers exceeds the amount allocated for those credits, then the tax credit to be received by each small business applicant shall be prorated by the department among all small business applicants who have qualified for the credit.

Section 1707-D. Shareholder, owner or member pass-through.

(a) Shareholder credit.--If a Pennsylvania S corporation does not have an eligible tax liability against which the tax credit may be applied, a shareholder of the Pennsylvania S

1 corporation is entitled to a tax credit equal to the tax credit
2 determined for the Pennsylvania S corporation for the taxable
3 year multiplied by the percentage of the Pennsylvania S
4 corporation's distributive income to which the shareholder is
5 entitled.

6 (b) Pass-through entity credit.--If a pass-through entity
7 other than a Pennsylvania S corporation does not have an
8 eligible tax liability against which the tax credit may be
9 applied, an owner or member of the pass-through entity is
10 entitled to a tax credit equal to the tax credit determined for
11 the pass-through entity for the taxable year multiplied by the
12 percentage of the pass-through entities' distributive income to
13 which the owner or member is entitled.

14 (c) Credit cumulation.--The credit provided under subsection
15 (a) or (b) is in addition to any tax credit to which a
16 shareholder, owner or member of a pass-through entity is
17 otherwise entitled under this article. However, a pass-through
18 entity and a shareholder, owner or member of a pass-through
19 entity may not claim a credit under this article for the same
20 child day care expense.

21 Section 1708-D. Report to General Assembly.

22 The secretary shall submit an annual report to the General
23 Assembly indicating the effectiveness of the credit provided by
24 this article no later than March 15 following the year in which
25 the credits were approved. The report shall include the names of
26 all taxpayers utilizing the credit as of the date of the report
27 and the amount of credits approved and utilized by each
28 taxpayer. Notwithstanding any law providing for the
29 confidentiality of tax records, the information contained in the
30 report shall be public information. The report may also include

1 any recommendations for changes in the calculation or
2 administration of the credit.

3 Section 1709-D. Termination.

4 The department shall not approve a tax credit under this
5 article for taxable years ending after December 31, 2020.

6 Section 1710-D. Regulations.

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

9 Section 2. This act shall apply to taxable years beginning
10 after December 31, 2005.

11 Section 3. This act shall take effect in 60 days.