

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2056 Session of
2007

INTRODUCED BY REICHLEY, PETRI, RAMALEY, BEAR, BEYER, CLYMER,
DALLY, GEIST, GINGRICH, GODSHALL, HARHART, HESS, LEACH,
MELIO, MILNE, MOYER, MURT, MUSTIO, MYERS, D. O'BRIEN, PAYNE,
PICKETT, PYLE, QUINN, READSHAW, ROSS, SAYLOR, SCHRODER,
SIPTROTH, SWANGER, J. TAYLOR, THOMAS, WALKO, WATSON,
YOUNGBLOOD AND YUDICHAK, NOVEMBER 21, 2007

REFERRED TO COMMITTEE ON FINANCE, NOVEMBER 21, 2007

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 biotechnology services 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 XVII-F

18 BIOTECHNOLOGY SERVICES TAX CREDIT

19 Section 1701-F. Scope of article.

20 This article relates to biotechnology services tax credits.

1 Section 1702-F. 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 "Biotechnology services." The use or utilization of
6 biological systems, living organisms or derivatives thereof in a
7 technological application to make or modify products or
8 processes for specific use.

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

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

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

15 (2) A Pennsylvania S corporation.

16 "Qualified biotechnology services expense." Costs or
17 expenses incurred by an entity in the biotechnology services
18 industry to relocate in this Commonwealth or to establish a
19 presence in this Commonwealth.

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

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

25 "Tax credit." The biotechnology services tax credit
26 authorized under this article.

27 "Taxpayer." An entity subject to tax under Article III, IV
28 or VI which is eligible for a tax credit under this article. The
29 term shall include the shareholder, owner or member of a pass-
30 through entity that receives a tax credit.

Section 1703-F. Credit for biotechnology services.

(a) Application.--A taxpayer who incurs a qualified biotechnology services expense in a taxable year may claim a tax credit as provided in this article. By September 15, a taxpayer must submit an application to the department for biotechnology services 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 30% of the qualified biotechnology services expense.

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

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

(a) General rule.--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.--A tax credit approved by the department

for a qualified biotechnology services expense in 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 may not assign, carry back or obtain a refund of an unused tax credit.

Section 1705-F. Time limitations.

A taxpayer is not entitled to a tax credit for qualified biotechnology services expenses incurred in taxable years ending after December 31, 2011. The department shall not approve a tax credit under this article for taxable years ending after December 31, 2011.

Section 1706-F. Limitation on credits.

(a) Total credit limitation.--The total amount of tax credits approved by the department shall not exceed \$40,000,000 in any fiscal year.

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

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

(a) Pennsylvania S corporation.--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 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) Non-Pennsylvania S corporation.--If a pass-through
3 entity other than a Pennsylvania S corporation does not have an
4 eligible tax liability against which the tax credit may be
5 applied, an owner or member of that pass-through entity is
6 entitled to a tax credit equal to the tax credit determined for
7 the pass-through entity for the taxable year multiplied by the
8 percentage of the pass-through entity's distributive income to
9 which the owner or member is entitled.

10 (c) Additional credit.--The credit provided under subsection
11 (a) or (b) is in addition to any tax credit to which a
12 shareholder, owner or member of a pass-through entity is
13 otherwise entitled under this article. A pass-through entity and
14 a shareholder, owner or member of a pass-through entity may not
15 claim a credit under this article for the same qualified
16 biotechnology services expense.

17 Section 1708-F. Report.

18 The secretary shall annually report to the General Assembly
19 indicating the effectiveness of the credit provided by this
20 article no later than March 15 following the year in which the
21 credits were approved. The report shall include the names of all
22 taxpayers utilizing the credit as of the date of the report and
23 the amount of credits approved and utilized by each taxpayer.
24 Notwithstanding any law providing for the confidentiality of tax
25 records, the information contained in the report shall be public
26 information. The report may also include recommendations for
27 changes in the calculation or administration of the credit.

28 Section 1709-F. Regulations.

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

1 Section 2. This act shall take effect immediately.