

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1460 Session of
2012

INTRODUCED BY BRUBAKER, ERICKSON, ALLOWAY, GREENLEAF, HUGHES,
YUDICHAK, SOLOBAY, WAUGH, COSTA, FERLO, KASUNIC, BROWNE,
TARTAGLIONE, LEACH, MENSCH, FARNESE, BOSCOLA AND BLAKE,
MARCH 23, 2012

REFERRED TO FINANCE, MARCH 23, 2012

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 industry partnership tax credits.

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

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

16 ARTICLE XVII-G

17 INDUSTRY PARTNERSHIP TAX CREDIT

18 Section 1701-G. Scope of article.

19 This article relates to industry partnership tax credits.

20 Section 1702-G. Definitions.

21 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Department." The Department of Labor and Industry of the
4 Commonwealth.

5 "Industry partnership tax credit." The credit provided under
6 this article.

7 "Pass-through entity." A partnership as defined in section
8 301(n.0) or a Pennsylvania S corporation as defined in section
9 301(n.1).

10 "Qualified tax liability." The liability for taxes imposed
11 under Article III, IV or VI. The term shall not include any tax
12 withheld by an employer from an employee under Article III.

13 "Taxpayer." An entity subject to tax under Article III, IV
14 or VI. The term shall include the shareholder of a Pennsylvania
15 S corporation that receives an industry partnership tax credit.
16 Section 1703-G. Industry partnership tax credit for cash
17 contributions to industry partnerships.

18 (a) Claim.--A taxpayer may claim an industry partnership tax
19 credit against any qualified tax liability in an amount equal to
20 75% of any cash contribution to an industry partnership.

21 (b) Application.--By September 15, a taxpayer must submit an
22 application to the department for an industry partnership tax
23 credit incurred in the taxable year that ended in the prior
24 calendar year.

25 (c) Notification.--By December 15 of the calendar year
26 following the close of the taxable year during which the
27 contribution was made, the department shall notify the taxpayer
28 of the amount of the taxpayer's industry partnership tax credit
29 approved by the department.

30 (d) Claim prohibited.--A taxpayer may not claim an industry

1 partnership tax credit for any portion of a cash contribution
2 provided to satisfy the private sector matching funding
3 requirement for State grant funding under section 1304 of the
4 act of December 18, 2001 (P.L.949, No.114), known as the
5 Workforce Development Act.

6 Section 1704-G. Carryover, carryback, refund and assignment.

7 (a) General rule.--If the taxpayer cannot use the entire
8 amount of the industry partnership tax credit for the taxable
9 year in which the industry partnership tax credit is first
10 approved, the excess may be carried over to succeeding taxable
11 years and used as a credit against the qualified tax liability
12 of the taxpayer for those taxable years. Each time that the
13 industry partnership tax credit is carried over to a succeeding
14 taxable year, it shall be reduced by the amount that was used as
15 a credit during the immediately preceding taxable year. The
16 industry partnership tax credit may be carried over and applied
17 to succeeding taxable years for no more than 15 taxable years
18 following the first taxable year for which the taxpayer was
19 entitled to claim the industry partnership tax credit.

20 (b) Application.--An industry partnership tax credit
21 approved by the department in a taxable year first shall be
22 applied against the taxpayer's qualified tax liability for the
23 current taxable year as of the date on which the industry
24 partnership tax credit was approved before the industry
25 partnership tax credit is applied against any tax liability
26 under subsection (a).

27 (c) Prohibition.--A taxpayer shall not be entitled to carry
28 back or obtain a refund of an unused industry partnership tax
29 credit.

30 Section 1705-G. Guidelines for industry partnership tax

1 credits.

2 The department, in consultation with the Department of
3 Revenue, shall prescribe guidelines for determining whether
4 contributions qualify for industry partnership tax credits. The
5 department may deem contributions that fund any activity of an
6 industry partnership authorized under section 1303(b) of the act
7 of December 18, 2001 (P.L.949, No.114), known as the Workforce
8 Development Act, as qualifying for an industry partnership tax
9 credit.

10 Section 1706-G. Time limitations.

11 A taxpayer shall not be entitled to an industry partnership
12 tax credit for contribution made in taxable years ending after
13 December 31, 2016.

14 Section 1707-G. Limitations.

15 (a) Total.--The total amount of industry partnership tax
16 credits approved by the department may not exceed \$7,500,000 in
17 any taxable year.

18 (b) Individual taxpayer.--No taxpayer may receive more than
19 \$37,500 in industry partnership tax credits for any taxable
20 year.

21 (c) Industry partnership.--The total amount of industry
22 partnership tax credits resulting from contributions to certain
23 industry partnerships shall be limited to \$375,000 per industry
24 partnership in any taxable year.

25 (d) Allocation.--If the total amount of industry partnership
26 tax credits applied for by all taxpayers exceeds the amount
27 allocated for those credits, the industry partnership tax credit
28 to be received by each applicant shall be the product of the
29 allocated amount multiplied by the quotient of the industry
30 partnership tax credit applied for by the applicant divided by

1 the total of all industry partnership tax credits applied for by
2 all applicants, the algebraic equivalent of which is:
3 taxpayer's industry partnership tax credit=amount allocated
4 for those credits X (industry partnership tax credit applied
5 for by the applicant/total of all industry partnership tax
6 credits applied for by all applicants).

7 Section 1708-G. Pass-through entity.

8 (a) Transfer.--If a pass-through entity has any unused
9 industry partnership tax credit under section 1704-G, the entity
10 may elect, in writing, according to the department's procedures,
11 to transfer all or a portion of the industry partnership tax
12 credit to shareholders, members or partners in proportion to the
13 share of the entity's distributive income to which the
14 shareholder, member or partner is entitled.

15 (b) Additional credit.--The industry partnership tax credit
16 provided under subsection (a) shall be in addition to any
17 industry partnership tax credit to which a shareholder, member
18 or partner of a pass-through entity is otherwise entitled under
19 this article.

20 (c) Claim.--A shareholder, member or partner of a pass-
21 through entity to whom an industry partnership tax credit is
22 transferred under subsection (a) must immediately claim the
23 industry partnership tax credit in the taxable year in which the
24 transfer is made. The shareholder, member or partner may not
25 carry forward, carry back, obtain a refund of or sell or assign
26 the industry partnership tax credit.

27 Section 1709-G. Report to General Assembly.

28 The Secretary of Labor and Industry shall submit an annual
29 report to the General Assembly indicating the effectiveness of
30 the industry partnership tax credit no later than March 15

1 following the year in which the industry partnership tax credits
2 were approved. The report shall include the names of all
3 taxpayers utilizing the industry partnership tax credit as of
4 the date of the report and the amount of industry partnership
5 tax credits approved and utilized by each taxpayer.

6 Notwithstanding any law providing for the confidentiality of tax
7 records, the information contained in the report shall be public
8 information. The report may also include any recommendations for
9 changes in the calculation or administration of the industry
10 partnership tax credit.

11 Section 1710-G. Termination.

12 The department shall not approve an industry partnership tax
13 credit under this article for taxable years ending after
14 December 31, 2016.

15 Section 2. This act shall take effect immediately.