

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1682 Session of 2013

INTRODUCED BY EVANKOVICH, CUTLER, SANKEY, AUMENT, BARRAR,  
F. KELLER, MULLERY, SCHLOSSBERG, MILLARD, V. BROWN, KAUFFMAN,  
COHEN, MAJOR, DUNBAR, QUINN, GINGRICH, REED, SWANGER, HESS,  
EVERETT, MURT, TOOHL, GILLEN AND DENLINGER,  
SEPTEMBER 9, 2013

REFERRED TO COMMITTEE ON FINANCE, SEPTEMBER 9, 2013

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," in employment incentive payments, further  
11 providing for scope of article, for definitions and for  
12 employment incentive payments; providing for amount; further  
13 providing for administration and regulations, for limitations  
14 on credits, for time limitations and report; and providing  
15 for guidelines.

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

18 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
19 the Tax Reform Code of 1971, is amended by adding a section to  
20 read:

21 Section 1701.1-A. Scope of Article.--This article provides  
22 for the Employment Incentive Tax Credit.

23 Section 2. The definitions of "employment incentive payment"

1 and "pass-through entity" in section 1702-A of the act, added  
2 December 15, 1999 (P.L.926, No.63), are amended and the section  
3 is amended by adding definitions to read:

4 Section 1702-A. Definitions.--The following words, terms and  
5 phrases when used in this article shall have the meanings  
6 ascribed to them in this section, except where the context  
7 clearly indicates a different meaning:

8 "Department" means the Department of Community and Economic  
9 Development of the Commonwealth.

10 \* \* \*

11 ["Employment incentive payment" means the employment  
12 incentive payment credit provided by this article.]

13 "Pass-through entity" means [any of the following:

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

17 (2) A Pennsylvania S corporation.] a partnership as defined  
18 in section 301(n.0) or a Pennsylvania S corporation as defined  
19 in section 301(n.1).

20 "Qualified benefits" means, excluding any government  
21 subsidized medical care, any payments received by an eligible  
22 individual from general assistance, temporary assistance for  
23 needy families or any other welfare benefits as determined by  
24 the Department of Public Welfare of the Commonwealth.

25 \* \* \*

26 "Qualified offer of employment" means a bona fide offer of  
27 employment as determined by the Department of Public Welfare of  
28 the Commonwealth.

29 \* \* \*

30 "Tax credit" mean the employment incentive tax credit

1 established by this article.

2 \* \* \*

3 Section 3. Section 1703-A of the act, added December 15,  
4 1999 (P.L.926, No.63), is amended to read:

5 Section 1703-A. [Employment Incentive Payments]

6 Eligibility.--(a) A taxpayer who employs an eligible individual  
7 shall be entitled to [employment incentive payments] a tax  
8 credit as provided by this article.

9 (b) No [employment incentive payment shall be provided] tax  
10 credit shall be awarded for:

11 (1) The employment of a person who displaces any other  
12 individual from employment except persons discharged for cause  
13 as certified by the Department of Labor and Industry.

14 (2) The employment of a person closely related, as defined  
15 by clauses (1) through (8) of section 152(a) of the Internal  
16 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 152(a)(1)  
17 through(8)), to the taxpayer or, if the taxpayer is a  
18 corporation, to an individual who owns, directly or indirectly,  
19 more than 50% of the outstanding stock of the taxpayer.

20 (3) Wages paid to an individual during the time period for  
21 which the employer received federally funded or State funded job  
22 training payments for that individual.

23 [(c) The employment incentive payment shall be calculated on  
24 an annual basis as provided in clauses (1) and (2):

25 (1) The employment incentive payment shall be the sum of  
26 thirty per cent of the first nine thousand dollars (\$9,000) of  
27 qualified first-year wages, twenty per cent of the first nine  
28 thousand dollars (\$9,000) of qualified second-year wages and ten  
29 per cent of the first nine thousand dollars (\$9,000) of  
30 qualified third-year wages.

(2) A taxpayer eligible to receive a credit under clause (1) shall be eligible to receive an additional employment incentive payment as provided in this clause if:

(i) the taxpayer provides or pays for day care services for the children of an eligible individual; or

(ii) the taxpayer provides or pays for transportation services that enable an eligible individual to travel to and from work.

The additional employment incentive payments under this clause shall be the expenses incurred by the taxpayer for services listed in subclauses (i) and (ii), but in no case shall the additional employment incentive payment for each eligible individual exceed eight hundred dollars (\$800) during the first year of employment, six hundred dollars (\$600) during the second year of employment or four hundred dollars (\$400) during the third year of employment.

(d) The employment incentive payment shall be utilized as a credit against a qualified tax liability to which the taxpayer is subject. The employment incentive payment applicable to a pass-through entity shall be allocated in the same manner as income is allocated.

(e) (1) Except in cases where an eligible individual voluntarily leaves the employment of the taxpayer, becomes disabled or is terminated for cause, no taxpayer shall be entitled to receive an employment incentive payment if the eligible individual is employed by the taxpayer for less than one year.

(2) If the eligible individual leaves the employment of the taxpayer voluntarily, becomes disabled or is terminated for cause in less than one year, the employment incentive payment

1 shall be reduced by the proportion of the year not worked.

2 (f) The total employment incentive payment credit shall not  
3 exceed ninety per cent of the total taxes paid by the employer  
4 against which the employment incentive payments may be claimed  
5 as a credit.

6 (g) Employment incentive payments unused as a tax credit in  
7 a taxable year may be carried over against a qualified tax  
8 liability in the ten immediately subsequent taxable years.

9 (h) For the purposes of computing a tax liability against  
10 which the employment incentive payments may be applied,  
11 deductions from taxable income shall be reduced by the  
12 employment incentive payments.]

13 Section 4. The act is amended by adding a section to read:

14 Section 1703.1-A. Amount.--(a) The tax credit shall be  
15 calculated on an annual basis as provided in clauses (1), (2)  
16 and (3):

17 (1) The tax credit shall be the sum of thirty per cent of  
18 the first nine thousand dollars (\$9,000) of qualified first-year  
19 wages, twenty per cent of the first nine thousand dollars  
20 (\$9,000) of qualified second-year wages and ten per cent of the  
21 first nine thousand dollars (\$9,000) of qualified third-year  
22 wages.

23 (2) A taxpayer eligible to receive a tax credit under clause  
24 (1) shall be eligible to receive an additional tax credit as  
25 provided in this clause if:

26 (i) the taxpayer provides or pays for day care services for  
27 the children of an eligible individual; or

28 (ii) the taxpayer provides or pays for transportation  
29 services that enable an eligible individual to travel to and  
30 from work.

1     (3) Excluding any government subsidized medical benefits,  
2 the tax credit shall not exceed fifty per cent of the average  
3 monthly benefits received by the eligible individual from the  
4 following sources:

5     (i) General assistance.

6     (ii) Temporary assistance to needy families.

7     (iii) Disability payments.

8     (b) The additional tax credit under this subsection shall be  
9 claimed against the expenses incurred by the taxpayer for  
10 services listed in subclauses (i) and (ii), but in no case shall  
11 the additional tax credit for each eligible individual exceed  
12 eight hundred dollars (\$800) during the first year of  
13 employment, six hundred dollars (\$600) during the second year of  
14 employment or four hundred dollars (\$400) during the third year  
15 of employment.

16     (c) All tax credits claimed under this article shall be  
17 utilized as a credit against a qualified tax liability to which  
18 the taxpayer is subject.

19     (d) For the purposes of computing a tax liability against  
20 which the tax credits may be applied, deductions from taxable  
21 income shall be reduced by the tax credit.

22     Section 5. Section 1704-A of the act, added December 15,  
23 1999 (P.L.926, No.63), is amended to read:

24     Section 1704-A. [Administration and Regulations.--The  
25 department, in cooperation with the Department of Public Welfare  
26 and the Department of Labor and Industry, shall administer the  
27 provisions of this article, promulgate appropriate rules,  
28 regulations and forms for that purpose and make such  
29 determinations as may be required. Determinations made with  
30 respect to the employment incentive payment provided in this

section may be reviewed and appealed in the manner provided by law for other corporate or personal tax credits] (Reserved).

Section 6. The act is amended by adding sections to read:

Section 1704.1-A. Application for Tax Credit Certificate.--

(a) A qualified taxpayer may apply to the department for a tax credit certificate under this section. The application must be on a form required by the department and shall include all of the following information:

(1) The name and address of the applicant.

(2) Documentation of the following for each eligible individual:

(i) All wages paid by the taxpayer.

(ii) Any payments made by the taxpayer to provide day care services for the children of the eligible individual.

(iii) Any payment made by the taxpayer to provide transportation services that enabled the eligible individual to travel to and from work.

(3) Any other information required by the department.

(b) During the review process, the department shall do the following:

(1) Review and approve applications according to the order applications are received and the availability of employment incentive tax credits.

(2) Notify the applicant within thirty days of receipt of the application of its determination.

(3) If the application is approved, the department shall issue the qualified taxpayer a tax credit certificate within fifteen days of the approval.

(4) In granting tax credits under this article, the department, in any fiscal year, shall not grant more than

twenty-five million dollars (\$25,000,000) in tax credit  
certificates to taxpayers who reduce an eligible individual's  
qualified benefits by less than fifty percent.

Section 1704.2-A. Shareholder, Owner or Member Pass-  
Through.--(a) 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 shall  
be 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 shareholder is entitled.

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

(c) (1) Except as provided under clause (2), the tax credit  
provided under subsections (a) or (b) shall be in addition to  
any other tax credit to which a shareholder, owner or member of  
a pass-through entity is otherwise entitled under this chapter.

(2) A pass-through entity and a shareholder, owner or member  
of a pass-through entity shall not claim a tax credit under this  
chapter for the same qualified investment.

Section 7. Section 1705-A of the act, added December 15,  
1999 (P.L.926, No.63), is amended to read:

Section 1705-A. Limitation on Credits.--[The total amount of  
employment incentive payments authorized by this article shall  
not exceed twenty-five million dollars (\$25,000,000) in any



fiscal year. To insure that credits are not claimed in excess of this amount, a taxpayer may claim the incentive payments only upon presentation of an authorizing certificate. Certificates will be issued to the taxpayer by the Department of Labor and Industry upon presentation to the Department of Labor and Industry of evidence of a qualifying offer of employment. If necessary to avoid certificate issuances in excess of the maximum authorized amount for any fiscal year, the department shall advise the Department of Labor and Industry of the total number of certificates which may be issued in each calendar

quarter.] (a) Except in cases where an eligible individual voluntarily leaves the employment of the taxpayer, becomes disabled or is terminated for cause, no taxpayer shall be entitled to receive a tax credit if the eligible individual is employed by the taxpayer for less than one year.

(b) If an eligible individual leaves the employment of the taxpayer voluntarily, becomes disabled or is terminated for cause in less than one year, the taxpayer shall refund to the Commonwealth the total amount of tax credit granted.

(c) Credits may be claimed against taxes payable for tax years beginning January 1, 2013, and thereafter, and may be claimed for employees hired after December 31, 2012.

(d) A taxpayer may not carry back or obtain a refund of an unused tax credit.

(e) A taxpayer, upon application to and approval by the department, may sell or assign, in whole or in part, a tax credit granted to the taxpayer. The department shall establish guidelines for the approval of applications under this subsection.

(f) The purchaser or assignee of a portion of a tax credit

1 under subsection (e) shall immediately claim the credit in the  
2 taxable year in which the purchase or assignment is made. The  
3 amount of the tax credit that a purchaser or assignee may use  
4 against any one qualified tax liability may not exceed seventy-  
5 five percent of the qualified tax liability for the taxable  
6 year. The purchaser or assignee may not carry over, carry back,  
7 obtain a refund of or assign the tax credit. The purchaser or  
8 assignee shall notify the department of the seller or assignor  
9 of the tax credit in compliance with procedures specified by the  
10 department.

11 Section 8. Section 1706-A of the act, amended November 19,  
12 2004 (P.L.873, No.116), is amended to read:

13 Section 1706-A. Time Limitations and Report.--[Employment  
14 incentive payments shall not be available for employees hired  
15 after December 31, 2009, unless reenacted by the General  
16 Assembly. Not later than July 1, 2004, and December 31, 2008,  
17 the Secretary of Public Welfare shall report to the General  
18 Assembly on the effectiveness of incentive payments to encourage  
19 the employment of general assistance and temporary assistance to  
20 needy families recipients and recommend whether the program  
21 should be continued. Credits may be claimed against taxes  
22 payable for tax years beginning January 1, 2000, and thereafter,  
23 and may be claimed for employees hired after December 31, 1999.]  
24 No later than June 1, 2014, and each June 1 thereafter, the  
25 department shall submit a report on the effectiveness of the  
26 employment incentive tax credits granted under this article. The  
27 report shall include the names of taxpayers who were issued  
28 employment incentive tax credits as of the date of the report.  
29 The report may include recommendations for changes in the  
30 calculation or administration of the employment incentive tax

1 credits and other information as the department deems  
2 appropriate. The report shall be submitted to all of the  
3 following:

4 (1) The chairman and minority chairman of the Appropriations  
5 Committee of the Senate.

6 (2) The chairman and minority chairman of the Appropriations  
7 Committee of the House of Representatives.

8 (3) The chairman and minority chairman of the Finance  
9 Committee of the Senate.

10 (4) The chairman and the minority chairman of the Finance  
11 Committee of the House of Representatives.

12 Section 9. The act is amended by adding a section to read:

13 Section 1707-A. Guidelines.--The department, in conjunction  
14 with the Department of Revenue, shall develop written guidelines  
15 necessary for the implementation and administration of this  
16 article. The guidelines shall be posted on the department's  
17 publicly accessible Internet website.

18 Section 10. This act shall take effect immediately.