

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 209 Session of 2013

INTRODUCED BY STACK, FERLO, FONTANA, BREWSTER, SMITH, SOLOBAY,
YUDICHAK, RAFFERTY, FARNESE, WAUGH, COSTA, BRUBAKER AND
BOSCOLA, FEBRUARY 11, 2013

REFERRED TO FINANCE, FEBRUARY 11, 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," providing for manufacturing and agriculture 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 XIX-B

18 MANUFACTURING AND AGRICULTURE TAX CREDIT

19 Section 1901-B. Short title.

20 This article shall be known and may be cited as the
21 Manufacturing and Agriculture Tax Credit Act.

22 Section 1902-B. Definitions.

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

4 "Business firm." An agricultural, manufacturing or research
5 and development enterprise as defined in section 3 of the act of
6 May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania
7 Industrial Development Authority Act, authorized to do business
8 in this Commonwealth subject to taxes imposed by Article III,
9 IV, VI, VII, VIII, IX or XV, and physical product production
10 generates 51% or more of the firm's daily business. The term
11 shall include a pass-through entity.

12 "New product development." Activities directly related to
13 the product development process, including, but not limited to,
14 the referral screen and formation of a product development
15 committee, the initial screen, preliminary and detailed
16 investigations of business plans and models, markets and project
17 needs, product development and postdevelopment review, testing
18 and validation.

19 "Pass-through entity." A partnership as defined under
20 section 301(n.0) or a Pennsylvania S corporation as defined
21 under section 301(n.1).

22 "Product development." Creating a new good to sell to
23 consumers.

24 "Qualified investment." An investment made by a business
25 firm that develops, sustains or enhances Pennsylvania's
26 manufacturing or agriculture sectors through new product
27 development. Eligible activities include, but are not limited
28 to, new construction, infrastructure improvements, machine and
29 equipment purchases, new product development and market
30 research.

1 "Secretary." The Secretary of Community and Economic
2 Development of the Commonwealth.

3 Section 1903-B. Tax credit.

4 (a) Eligibility.--A business firm that makes qualified
5 investment shall receive a tax credit as provided in section
6 1904-B if the secretary annually approves the proposal of the
7 business firm. The proposal shall set forth the qualified
8 investment to be made, the estimated amount to be invested and
9 the plans for implementing the investment.

10 (b) Report of proposals.--The secretary is hereby authorized
11 to promulgate rules and regulations for the approval or
12 disapproval of the proposals by business firms. The secretary
13 shall provide a report listing all applications received and
14 their disposition in each fiscal year to the General Assembly by
15 October 1 of the following fiscal year. The secretary's report
16 shall include all taxpayers utilizing the credit and the amount
17 of credits approved, sold or assigned. Notwithstanding any law
18 providing for the confidentiality of tax records, the
19 information in the report shall be public information, and all
20 report information shall be posted on the secretary's Internet
21 website.

22 (c) Special consideration.--The secretary shall take into
23 special consideration, when approving applications for the tax
24 credit under this article, applications that involve multiple
25 projects in various markets throughout this Commonwealth.

26 (d) Limit.--The total amount of tax credit granted for
27 programs approved under this article shall not exceed
28 \$18,000,000 of tax credit in any fiscal year.

29 (e) Distribution.--The tax credits shall have two rounds of
30 funding each fiscal year. The grants shall be evenly distributed

1 over the two rounds. The grant funds shall be distributed as
2 follows:

3 (1) Ten million dollars to companies with 500 employees
4 or more. Five million dollars shall be distributed during
5 each round of funding.

6 (2) Four million dollars to companies with 100-499
7 employees. Two million dollars shall be distributed during
8 each round of funding.

9 (3) Three million dollars to companies with 20-99
10 employees. One million five hundred thousand dollars shall be
11 distributed during each round of funding.

12 (4) One million dollars to companies with 1-19
13 employees. Five hundred thousand dollars shall be distributed
14 during each round of funding.

15 (f) Sale or assignment.--A taxpayer, upon application to and
16 approval by the Department of Community and Economic
17 Development, may sell or assign, in whole or in part, a tax
18 credit granted to the business firm under this article if no
19 claim for allowance of the credit is filed within one year from
20 the date the credit is granted by the Department of Revenue
21 under section 1904-B. The Department of Community and Economic
22 Development and the Department of Revenue shall jointly
23 promulgate guidelines for the approval of applications under
24 this subsection.

25 (g) Time provisions.--The purchaser or assignee of a tax
26 credit under subsection (f) shall immediately claim the credit
27 in the taxable year in which the purchase or assignment is made.
28 The purchaser or assignee may not carry over, carry back, obtain
29 a refund or sell or assign the tax credit. The purchaser or
30 assignee shall notify the Department of Revenue of the seller or

assignor of the tax credit in compliance with procedures
specified by the Department of Revenue.

(h) Application.--The tax credit approved by the Department
of Community and Economic Development shall be applied against
the business firm's tax liability for the taxes under section
1904-B for the current taxable year as of the date on which the
credit was approved before the tax credit may be carried over,
sold or assigned.

Section 1904-B. Grant of tax credit.

The Department of Revenue shall grant a tax credit against
any tax due under Article III, IV, VI, VII, VIII, IX or XV, or
any tax substituted in lieu thereof, in an amount that shall not
exceed 45% of the total amount invested during the taxable year
by a business firm as approved pursuant to section 1903-B. A tax
credit of up to 75% of the total amount invested during the
taxable year by a business firm may be allowed for investment in
projects where activities fall within the scope of special
program priorities as defined with the approval of the Governor
in regulations promulgated by the secretary. No tax credit may
be granted to any bank, bank and trust company, insurance
company, trust company, national bank, savings association,
mutual savings bank or building and loan association for
activities that are a part of its normal course of business. Any
tax credit not used in the period the contribution or investment
was made may be carried over for the next five succeeding
calendar or fiscal years until the full credit has been allowed.
A business firm shall not be entitled to carry back or obtain a
refund of an unused tax credit. The total amount of all tax
credits allowed pursuant to this article shall not exceed
\$18,000,000 in any one fiscal year. Of that amount, \$2,000,000

1 shall be allocated exclusively for pass-through entities.

2 However, if the total amounts allocated to either the group of
3 applicants, exclusive of pass-through entities, or the group of
4 pass-through entity applicants is not approved in any fiscal
5 year, the unused portion shall become available for use by the
6 other group of qualifying taxpayers.

7 Section 1905-B. Decision in writing.

8 The decision of the secretary to approve or disapprove a
9 proposal pursuant to section 1903-B of this article shall be in
10 writing, and, if it approves the proposal, it shall state the
11 maximum credit allowable to the business firm. A copy of the
12 decision of the secretary shall be transmitted to the Governor
13 and to the Secretary of Revenue.

14 Section 1906-B. Pass-through entity.

15 (a) General rule.--If a pass-through entity has any unused
16 tax credit under section 1904-B, the entity may elect, in
17 writing, according to the Department of Revenue's procedures, to
18 transfer all or a portion of the credit to shareholders, members
19 or partners in proportion to the share of the entity's
20 distributive income to which the shareholder, member or partner
21 is entitled.

22 (b) Credit.--The credit provided under subsection (a) is in
23 addition to any other tax credit to which a shareholder, member
24 or partner of a pass-through entity is otherwise entitled under
25 this article. However, a pass-through entity and a shareholder,
26 member or partner of a pass-through entity may not claim a
27 credit under this article for the same investment.

28 (c) Time frame for claim.--A shareholder, member or partner
29 of a pass-through entity to whom credit is transferred under
30 subsection (a) must immediately claim the credit in the taxable

1 year in which the transfer is made. The shareholder, member or
2 partner may not carry forward, carry back, obtain a refund or
3 sell or assign the credit.

4 Section 2. This act shall take effect in 60 days.