

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 666 Session of
2015

INTRODUCED BY MURT, V. BROWN, CALTAGIRONE, COHEN, DAVIS, GABLER,
GIBBONS, GOODMAN, GRELL, HARKINS, LONGIETTI, McCARTER,
MILLARD, MOUL, READSHAW, ROEBUCK AND SCHLOSSBERG,
MARCH 2, 2015

REFERRED TO COMMITTEE ON COMMERCE, MARCH 2, 2015

AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania
2 Consolidated Statutes, providing for equipment donation tax
3 credit.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 12 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 43

9 EQUIPMENT DONATION TAX CREDIT

10 Sec.

11 4301. Scope of chapter.

12 4302. Definitions.

13 4303. Establishment.

14 4304. Credit for qualified equipment donation.

15 4305. Carryover, application of tax credit, carryback, refund
16 and assignment.

17 4306. Time limitation.

1 4307. Limitation on tax credits.

2 4308. Shareholder, owner or member pass through.

3 4309. Repayment.

4 4310. Reports.

5 4311. Termination.

6 4312. Guidelines.

7 § 4301. Scope of chapter.

8 This chapter relates to equipment donation tax credits.

9 § 4302. Definitions.

10 The following words and phrases, when used in this chapter,
11 shall have the meanings given to them in this section, unless
12 the context clearly indicates otherwise:

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

14 "Pass-through entity." A partnership as defined in section
15 301(n.0) of the act of March 4, 1971 (P.L.6, No.2), known as the
16 Tax Reform Code of 1971, or a Pennsylvania S corporation as
17 defined in section 301(n.1) of the Tax Reform Code of 1971.

18 "Qualified equipment donation." Equipment donated by a
19 taxpayer to an area vocational-technical school that is used to
20 train individuals in a specified vocation.

21 "Qualified tax liability." The liability for taxes imposed
22 under Article III, IV or VI of the Tax Reform Code of 1971. The
23 term shall include the liability for taxes imposed under Article
24 III of the Tax Reform Code of 1971 on an owner of a pass-through
25 entity.

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

27 "Tax credit." The equipment donation tax credit authorized
28 under this chapter.

29 "Taxpayer." A person subject to tax under Article III, IV or
30 VI of the Tax Reform Code of 1971. The term shall include the

shareholder, owner or member of a pass-through entity that receives an equipment donation tax credit.

§ 4303. Establishment.

There is established a tax credit program to be known as the Equipment Donation Tax Credit.

§ 4304. Credit for qualified equipment donation.

(a) Application.--A taxpayer that made a qualified equipment donation to an area vocational-technical school, as defined in section 1841 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, in a taxable year may apply for a tax credit. The application must be on a form required by the department and shall include all of the following:

(1) The name and address of the taxpayer.

(2) The name and address of the area vocational-technical school to which the taxpayer donated equipment.

(3) Documentation establishing the current value of the qualified equipment donation.

(4) Documentation that the qualified equipment donation has been made by the applicant.

(5) Any other information required by the department.

(b) Review.--The department shall review the application and determine if:

(1) All requirements established under this chapter have been met.

(2) The applicant has filed all required State tax reports and returns for all taxable years and paid any balance of State tax due.

(c) Approval.--Upon being satisfied with the requirements under subsection (b), the department shall approve the application and award the taxpayer a tax credit for the taxable

1 year in the amount equal to the current value of the qualified
2 equipment donation. The total amount of tax credits awarded to a
3 taxpayer under this chapter shall not exceed \$10,000 each fiscal
4 year.

5 (d) Notification.--The department shall notify the taxpayer
6 of the amount of the taxpayer's tax credit within 30 days after
7 approval by the department.

8 (e) Purchasers and assignees.--The purchaser or assignee of
9 all or a portion of a tax credit under subsection (d) shall
10 immediately claim the tax credit in the taxable year in which
11 the purchase or assignment is made, although the purchaser or
12 assignee may carry over unused tax credits to the succeeding
13 taxable year for up to two years. The amount of the tax credit
14 that a purchaser or assignee may use against any one qualified
15 tax liability may not exceed 75% of the qualified tax liability
16 for the taxable year. The purchaser or assignee may not carry
17 back or obtain a refund of or sell or assign the tax credit. The
18 purchaser or assignee shall notify the department of the seller
19 or assignor of the tax credit in compliance with procedures
20 specified by the department.

21 § 4305. Carryover, application of tax credit, carryback, refund
22 and assignment.

23 (a) Carryover.--If the taxpayer cannot use the entire amount
24 of the tax credit for the taxable year in which the tax credit
25 is first approved, the excess may be carried over to succeeding
26 taxable years and used as a credit against the qualified tax
27 liability of the taxpayer for those taxable years. Each time
28 that the tax credit is carried over to a succeeding taxable
29 year, it shall be reduced by the amount that was used as a
30 credit during the immediately preceding taxable year. The tax

credit may be carried over and applied to succeeding taxable years for no more than seven taxable years following the first taxable year for which the taxpayer was entitled to claim the tax credit.

(b) Application of tax credit.--A tax credit approved by the department for a qualified equipment donation in a taxable year shall first be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the tax credit was approved before the tax credit is applied against any tax liability under subsection (a).

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

(d) Sale or assignment.--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 under this chapter if the taxpayer does not have a qualified tax liability against which the tax credit may be applied in the current taxable year. The department shall establish guidelines for the approval of applications under this subsection. Before an application is approved, the department shall make a finding that the taxpayer and its assignee have filed all required State tax reports and returns for all taxable years and paid any balance of State tax due as determined by the department.

(e) Purchasers and assignees.--The purchaser or assignee of all or a portion of a tax credit under subsection (d) shall immediately claim the credit in the taxable year in which the purchase or assignment is made, although the purchaser or assignee may carry over unused tax credits to the succeeding taxable year for up to two years. The amount of the tax credit that a purchaser or assignee may use against any one qualified

tax liability may not exceed 75% of the qualified tax liability for the taxable year. The purchaser or assignee may not carry back or obtain a refund of or sell or assign the tax credit. The purchaser or assignee shall notify the department of the seller or assignor of the tax credit in compliance with procedures specified by the department.

§ 4306. Time limitation.

A taxpayer shall not be entitled to a tax credit for qualified equipment donations made in taxable years ending after December 31, 2025.

§ 4307. Limitation on tax credits.

(a) Total amount.--The total amount of tax credits approved by the department in any calendar year shall not exceed \$5,000,000.

(b) Allocation.--Tax credits shall be allocated by the department on a first-come, first-served basis.

§ 4308. Shareholder, owner or member pass through.

(a) Shareholder entitlement.--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) Pass-through entity entitlement.--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

1 entity for the taxable year multiplied by the percentage of the
2 pass-through entity's distributive income to which the owner or
3 member is entitled.

4 (c) Additional credit.--

5 (1) Except as provided under paragraph (2), the tax
6 credit provided under subsection (a) or (b) shall be in
7 addition to any other tax credit to which a shareholder,
8 owner or member of a pass-through entity is otherwise
9 entitled under this chapter.

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

13 § 4309. Repayment.

14 The department shall require the taxpayer to repay any tax
15 credit received under this chapter that is in excess of the
16 current value of the qualified equipment donation where the
17 department determines that any of the following conditions
18 exists:

19 (1) the area vocational-technical school is no longer in
20 operation;

21 (2) the area vocational-technical school returns any or
22 all donated equipment to the taxpayer; or

23 (3) the taxpayer received the tax credit as a result of
24 fraud.

25 § 4310. Reports.

26 (a) Annual report.--The secretary shall submit an annual
27 report to the chairmen and minority chairmen of the standing
28 committees in the Senate and the chairmen and minority chairmen
29 of the standing committees in the House of Representatives with
30 jurisdiction over the department as follows:

1 (1) The report shall indicate the effectiveness of the
2 tax credit provided under this chapter.

3 (2) The report shall be submitted no later than March 15
4 following the fiscal year in which the tax credits were
5 approved.

6 (3) Notwithstanding any law providing for the
7 confidentiality of tax records, the report shall include the
8 following:

9 (i) The names of all taxpayers awarded the tax
10 credits.

11 (ii) The names of all taxpayers utilizing the tax
12 credits.

13 (iii) The amount of tax credits approved and
14 utilized by each taxpayer.

15 (iv) The names and locations of the qualified
16 business ventures for which the tax credits were awarded.

17 (4) The report may also include any recommendations for
18 changes in the calculation or administration of the tax
19 credit.

20 (b) Public record.--The report and the information contained
21 in it shall be considered a public record under section 102 of
22 the act of February 14, 2008 (P.L.6, No.3), known as the Right-
23 to-Know Law.

24 § 4311. Termination.

25 The department shall not approve a tax credit for qualified
26 equipment donations incurred in taxable years ending after
27 December 31, 2025.

28 § 4312. Guidelines.

29 The department shall develop written guidelines for the
30 implementation and administration of this chapter. The

1 guidelines shall be posted on the department's publicly
2 accessible Internet website.

3 Section 2. The addition of 12 Pa.C.S. Ch. 43 shall apply to
4 qualified equipment donations made in taxable years beginning
5 after December 31, 2015.

6 Section 3. This act shall take effect immediately.