

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1791 Session of
2015

INTRODUCED BY KAMPF, JAMES, BAKER, MURT, BOBACK, THOMAS,
ZIMMERMAN AND WARD, JANUARY 21, 2016

REFERRED TO COMMITTEE ON FINANCE, JANUARY 21, 2016

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 the basic needs 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-J

18 BASIC NEEDS SERVICES TAX CREDIT

19 Section 1701-J. Scope of article.

20 This article relates to basic needs services tax credits.

21 Section 1702-J. Definitions.

22 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 "Basic needs services." Cash assistance, medical care, child
4 care, adult care, food, clothing, shelter, job placement or job
5 training services, or another assistance that is reasonably
6 necessary to meet the immediate basic needs of an individual and
7 that is provided and used in this Commonwealth.

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

10 "Individual." A person who is eligible to receive basic
11 needs services provided by a qualified provider.

12 "Qualified contribution." A donation to a qualified provider
13 that meets all of the following:

14 (1) Is cash, personal property or services, the value of
15 which is the net cost of the donation to the donor or the pro
16 rata hourly wage, including benefits, of the individual
17 performing the service.

18 (2) Is a permissible charitable tax deduction on a
19 qualified taxpayer's Federal income tax return as provided by
20 the Internal Revenue Code of 1986 (Public Law 99-514, 26
21 U.S.C. § 1 et seq.).

22 "Qualified provider." A nonprofit entity that meets all of
23 the following:

24 (1) Provides basic needs services to individuals who do
25 one of the following:

26 (i) Receive temporary assistance to needy families.

27 (ii) Have household income fall below 150% of the
28 Federal poverty level.

29 (2) Is exempt from Federal taxation under section 501(c)
30 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,

1 26 U.S.C. §501(c)(3)).

2 "Qualified taxpayer." An entity that is authorized to do
3 business in this Commonwealth and subject to taxes imposed under
4 Article III, IV, VI, VII, VIII, IX or XV.

5 "Tax credit." The basic needs services tax credit provided
6 under this article.

7 Section 1703-J. Basic needs services tax credit program.

8 A basic needs services tax credit program is established to
9 supplement existing Federal and State funding for basic needs
10 services for individuals in this Commonwealth.

11 Section 1704-J. Qualified provider application.

12 (a) Information.--In order to qualify under this article, a
13 qualified provider must submit information to the department to
14 confirm that the qualified provider is exempt from taxation
15 under section 501(c)(3) of the Internal Revenue Code of 1986
16 (Public Law 99-514, 26 U.S.C. § 501(c)(3)).

17 (b) Application.--An application submitted to the department
18 by the qualified provider shall contain all of the following:

19 (1) Name and address of the entity seeking approval as a
20 qualified provider.

21 (2) A description of the basic needs services the entity
22 provides to individuals on a form provided by the department.

23 (3) Additional information required by the department.

24 (c) Review and approval.--The department shall review and
25 approve or disapprove the application. The department shall
26 consult with the Department of State and the Department of Human
27 Services as necessary to determine that the qualified provider
28 provides basic needs services for individuals.

29 (d) Notification.--The department shall notify the provider
30 that the provider meets the requirements under this article for

1 the fiscal year no later than 60 days after the provider has
2 submitted the application required under this section.

3 (e) Publication.--The department shall annually publish a
4 list of each qualified provider under this section in the
5 Pennsylvania Bulletin. The list shall be posted and updated on
6 the publicly accessible Internet website of the department.
7 Section 1705-J. Application for tax credit certificate.

8 (a) Grant.--In accordance with section 1706-J(a), the
9 department shall grant a tax credit certificate. The certificate
10 may be used against a tax liability owed to the Department of
11 Revenue by a qualified taxpayer who provides proof of a
12 qualified contribution to a qualified provider in the taxable
13 year the qualified contribution is made. The taxpayer may apply
14 the tax credit against any tax imposed under Article III, IV,
15 VI, VII, VIII, IX, or XV, excluding tax withheld by an employer
16 under Article III.

17 (b) Application.--A qualified taxpayer may apply to the
18 department for a tax credit if the qualified provider that
19 receives the qualified contribution appears on the list
20 established under section 1704-J(e). The application shall
21 include all of the following:

22 (1) Name, address and tax identification number of the
23 qualified taxpayer applying for a tax credit.

24 (2) Name and address of each qualified provider the
25 qualified taxpayer made a qualified contribution to.

26 (3) Proof of each qualified contribution.

27 (4) Amount of each qualified contribution.

28 (5) Additional information required by the department.

29 (c) Review and approval.--

30 (1) The department shall review and approve applications

1 for tax credit certificates in the order applications are
2 received and the availability of tax credits under this
3 article.

4 (2) A tax credit issued under this section may not
5 exceed:

6 (1) Fifty percent of the total amount of qualified
7 contributions made by a qualified taxpayer.

8 (2) One hundred thousand dollars annually.

9 (d) Notification.--The department shall notify the qualified
10 taxpayer of the determination within 30 days of receipt of the
11 application.

12 (e) Issuance.--If the application is approved, the
13 department shall issue a tax credit certificate to the qualified
14 taxpayer within 15 days of the approval.

15 Section 1706-J. Limitations.

16 (a) Aggregate amount of tax credits.--The total aggregate
17 amount of all tax credits approved under this article may not
18 exceed \$10,000,000 in a fiscal year.

19 (b) Activities.--A tax credit may not be approved for
20 activities that are part of a qualified taxpayer's normal course
21 of business.

22 (c) Tax liability.--A tax credit granted for one taxable
23 year may not exceed the tax liability of a qualified taxpayer.

24 (d) Use.--The amount of tax credit not used in the taxable
25 year the qualified contribution was made may not be carried
26 forward or carried back and may not be refunded or transferred.

27 (e) Contributions.--The contributions received by a
28 qualified provider from a qualified taxpayer claiming a tax
29 credit under this article may be used at the discretion of the
30 qualified provider in a manner consistent with the stated

1 mission or purpose of the qualified provider.

2 Section 1707-J. Shareholder, owner or member pass-through.

3 (a) Shareholder entitlement.--If a Pennsylvania S
4 corporation does not have an eligible tax liability against
5 which the tax credit may be applied, a shareholder of the
6 Pennsylvania S corporation shall be entitled to a tax credit
7 equal to the tax credit determined for the Pennsylvania S
8 corporation for the taxable year multiplied by the percentage of
9 the Pennsylvania S corporation's distributive income to which
10 the shareholder is entitled.

11 (b) Pass-through entity entitlement.--If a pass-through
12 entity other than a Pennsylvania S corporation does not have tax
13 liability against which the tax credit can be applied, an owner
14 or member of the pass-through entity shall be entitled to a tax
15 credit equal to the tax credit determined for the pass-through
16 entity for the taxable year multiplied by the percentage of the
17 pass-through entity's distributive income to which the owner or
18 member is entitled.

19 (c) Additional credit.--

20 (1) Except as provided under paragraph (2), the tax
21 credit provided under subsection (a) or (b) shall be in
22 addition to another tax credit to which a shareholder, owner
23 or member of a pass-through entity is otherwise entitled
24 under this chapter.

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

28 Section 1708-J. Guidelines.

29 The department, in conjunction with the Department of
30 Revenue, the Department of Human Services and the Department of

1 State, may establish guidelines as necessary to implement this
2 article. The guidelines shall be posted on the department's
3 publicly accessible Internet website.

4 Section 1709-J. Reports.

5 No later than June 1, 2017, and each June 1 thereafter, the
6 department shall submit a report on the effectiveness of the tax
7 credits granted under this article. The report shall include the
8 names of taxpayers who were issued tax credits as of the date of
9 the report. The report may include recommendations for changes
10 in the calculation or administration of the tax credits and
11 other information as the department deems appropriate. The
12 report shall be submitted to all of the following:

13 (1) The chairperson and minority chairperson of the
14 Appropriations Committee of the Senate.

15 (2) The chairperson and minority chairperson of the
16 Appropriations Committee of the House of Representatives.

17 (3) The chairperson and minority chairperson of the
18 Finance Committee of the Senate.

19 (4) The chairperson and minority chairperson of the
20 Finance Committee of the House of Representatives.

21 Section 2. The addition of Article XVII-J of the act shall
22 apply to taxable years beginning after December 31, 2015.

23 Section 3. This act shall take effect immediately.