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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 439 Session of  
2017

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SCHLOSSBERG, SCHWEYER, WATSON AND YOUNGBLOOD,  
FEBRUARY 10, 2017

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REFERRED TO COMMITTEE ON COMMERCE, FEBRUARY 10, 2017

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AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania  
2 Consolidated Statutes, in economic development programs,  
3 providing for the Returning Heroes Supplemental Tax Credit  
4 Program.

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

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

9 CHAPTER 44

10 RETURNING HEROES SUPPLEMENTAL TAX CREDIT PROGRAM

11 Sec.

12 4401. Scope of chapter.

13 4402. Definitions.

14 4403. Establishment.

15 4404. Application.

16 4405. Carryover, carryback, refund and assignment.

17 4406. Limitation on credits.

1 4407. Shareholder, owner or member of pass-through entity.

2 4408. Reports.

3 4409. Regulations.

4 4410. Applicability.

5 § 4401. Scope of chapter.

6 This chapter relates to the Returning Heroes Supplemental Tax  
7 Credit Program.

8 § 4402. Definitions.

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

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

13 "Federal Returning Heroes Tax Credit." A tax credit  
14 established under section 261 of the VOW to Hire Heroes Act of  
15 2011 (Public Law 112-56, 125 Stat. 711).

16 "Pass-through entity." A partnership as defined in section  
17 301(n.0) of the Tax Reform Code or a Pennsylvania S corporation  
18 as defined in section 301(n.1) of the Tax Reform Code.

19 "Qualified tax liability." The liability for taxes imposed  
20 under Article III, IV or VI of the Tax Reform Code. The term  
21 shall not include any tax withheld by an employer from an  
22 employee under Article III of the Tax Reform Code.

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

24 "Supplemental tax credit." The Returning Heroes Supplemental  
25 Tax Credit established under this chapter.

26 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),  
27 known as the Tax Reform Code of 1971.

28 "Taxpayer." An entity subject to tax under Article III, IV  
29 or VI of the Tax Reform Code. The term shall include the  
30 shareholder of a Pennsylvania S corporation that receives a

1 Returning Heroes Supplemental Tax Credit.

2 § 4403. Establishment.

3 There is established a tax credit program to be known as the  
4 Returning Heroes Supplemental Tax Credit Program. The program  
5 shall provide supplemental tax credits to taxpayers who receive  
6 a Federal Returning Heroes Tax Credit and meet the program  
7 requirements.

8 § 4404. Application.

9 (a) General rule.--By September 15, 2017, a taxpayer must  
10 submit an application and proof to the department of all Federal  
11 Returning Heroes Tax Credits that were awarded to the taxpayer  
12 during tax years 2016 and 2017. By September 15 of each  
13 subsequent year, a taxpayer must submit an application and proof  
14 to the department of all Federal Returning Heroes Tax Credits  
15 that were awarded to the taxpayer in the prior taxable year.

16 (b) Amount.--A taxpayer who receives a Federal Returning  
17 Heroes Tax Credit shall be eligible to receive from the  
18 department a supplemental tax credit of \$2,000.

19 (c) Notification.--By December 15 of the calendar year  
20 following the close of the taxable year during which a Federal  
21 Returning Heroes Tax Credit was awarded to the taxpayer, the  
22 department shall notify the taxpayer if its supplemental tax  
23 credit application was approved or denied. If the application is  
24 denied, the department shall state the reasons for the denial,  
25 including a description of deficiencies in the application.

26 § 4405. Carryover, carryback, refund and assignment.

27 (a) Carryover.--If the taxpayer cannot use the entire amount  
28 of the supplemental tax credit for the taxable year in which the  
29 supplemental tax credit is first approved, the excess may be  
30 carried over to the succeeding taxable years and used as a

1 credit against the qualified tax liability of the taxpayer for  
2 those taxable years. Each time that the supplemental tax credit  
3 is carried over to a succeeding taxable year, it shall be  
4 reduced by the amount that was used as a credit during the  
5 immediately preceding taxable year. The supplemental tax credit  
6 may be carried over and applied to succeeding taxable years for  
7 no more than 15 taxable years following the first taxable year  
8 for which the taxpayer was entitled to claim the credit.

9 (b) Application.--A supplemental tax credit approved by the  
10 department shall be applied against the taxpayer's qualified tax  
11 liability for the current taxable year as of the date on which  
12 the credit was approved before the tax credit is applied against  
13 any tax liability under subsection (a).

14 (c) Unused credit.--A taxpayer is not entitled to assign,  
15 carry back or obtain a refund of an unused supplemental tax  
16 credit.

17 § 4406. Limitation on credits.

18 (a) Total amount.--The total amount of supplemental tax  
19 credits approved by the department shall not exceed \$20,000,000  
20 in any fiscal year.

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

23 § 4407. Shareholder, owner or member of pass-through entity.

24 (a) Shareholder.--If a Pennsylvania S corporation does not  
25 have an eligible tax liability against which the supplemental  
26 tax credit may be applied, a shareholder of the Pennsylvania S  
27 corporation is entitled to a supplemental tax credit equal to  
28 the tax credit determined for the Pennsylvania S corporation for  
29 the taxable year multiplied by the percentage of the  
30 Pennsylvania S corporation's distributive income to which the

1 shareholder is entitled.

2 (b) Pass-through entity.--If a pass-through entity other  
3 than a Pennsylvania S corporation does not have an eligible tax  
4 liability against which the supplemental tax credit may be  
5 applied, an owner or member of the pass-through entity is  
6 entitled to a supplemental tax credit equal to the tax credit  
7 determined for the pass-through entity for the taxable year  
8 multiplied by the percentage of the pass-through entity's  
9 distributive income to which the owner or member is entitled.

10 (c) Additional credit.--The supplemental tax credit provided  
11 under subsection (a) or (b) shall be in addition to any other  
12 tax credit to which a shareholder, owner or member of a pass-  
13 through entity is entitled under this chapter, except that a  
14 pass-through entity and a shareholder, owner or member of a  
15 pass-through entity may not claim a supplemental tax credit  
16 under this chapter for the same expense.

17 § 4408. Reports.

18 The secretary shall submit an annual report to the General  
19 Assembly indicating the use and effectiveness of the  
20 supplemental tax credits no later than March 15 following the  
21 year in which the credits were approved. The report shall  
22 include the names of all businesses utilizing the supplemental  
23 tax credits as of the date of the report and the amount of  
24 credits approved and utilized by each taxpayer. Notwithstanding  
25 any law providing for the confidentiality of tax records, the  
26 information contained in the report shall be public information.  
27 The report may also include any recommendations for changes in  
28 the calculation or administration of the credit.

29 § 4409. Regulations.

30 The secretary shall promulgate regulations necessary for the

1 implementation and administration of this chapter.

2 § 4410. Applicability.

3 This chapter shall apply to taxpayers receiving Federal  
4 Returning Heroes Tax Credits during tax years beginning after  
5 December 31, 2016.

6 Section 2. This act shall take effect immediately.