
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 925 Session of
2017

INTRODUCED BY HUGHES, BREWSTER, YUDICHAK, TARTAGLIONE AND
SCHWANK, DECEMBER 28, 2017

REFERRED TO FINANCE, DECEMBER 28, 2017

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 manufacturing and investment tax credit,
11 further providing for definitions and for manufacturing tax
12 credit and providing for workforce development tax credit.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The definition of "taxpayer" in section 1801-G of
16 the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform
17 Code of 1971, added July 13, 2016 (P.L.526, No.84), is amended
18 and the section is amended by adding definitions to read:

19 Section 1801-G. Definitions.

20 The following words and phrases when used in this part shall
21 have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

23 * * *

1 "Diverse and disadvantageded businesses." The term as defined
2 in 62 Pa.C.S. § 2201 (relating to definitions).

3 "Economically distressed municipality." A municipality that
4 meets any of the following criteria:

5 (1) Is a municipality which has been determined to be
6 financially distressed under section 203(f) of the act of
7 July 10, 1987 (P.L.246, No.47), known as the Municipalities
8 Financial Recovery Act.

9 (2) Is a city, borough, town or township with a market
10 value per capita below the fifth percentile of all such
11 cities, boroughs, towns and townships, as certified annually
12 by the State Tax Equalization Board.

13 (3) Is located in a county having a personal income per
14 capita below the 15th percentile of all counties, as
15 certified annually by the Department of Revenue.

16 (4) Is located in a county having an annual average
17 unemployment rate above the 70th percentile of all counties,
18 as determined annually by the Department of Labor and
19 Industry.

20 * * *

21 "Taxpayer." An entity or a group of entities that is engaged
22 in the mechanical, physical or chemical transformation of
23 materials, substances or components into new products that are
24 creations of new items of tangible personal property for sale.
25 To qualify as a "taxpayer," a group of entities must:

26 (1) be comprised of individual entities that are engaged
27 in a similar line of manufacturing;

28 (2) have a formal written agreement between each of the
29 individual entities comprising the group; and

30 (3) ensure that each individual entity accounts for at

1 least \$100,000 and not more than \$600,000 of the annual
2 taxable payroll requirement provided under section 1802-G.

3 * * *

4 Section 2. Section 1804-G of the act, added July 13, 2016
5 (P.L.526, No.84), is amended to read:

6 Section 1804-G. Manufacturing tax credit.

7 (a) Maximum amount.--The department may award a
8 manufacturing tax credit of up to 5% of the taxpayer's increase
9 in annual taxable payroll if the annual taxable payroll
10 increases in year one by at least \$1,000,000 above the base year
11 amount from the creation of new jobs up to the amount specified
12 in the commitment letter.

13 (b) Determination.--The annual taxable payroll in year one
14 for a new job shall be the sum of the amount of annual taxable
15 payroll in year one for the new jobs created above the taxable
16 payroll in the base year.

17 (c) Certificate.--After verification by the department that
18 the taxpayer has increased the annual taxable payroll in year
19 one by at least \$1,000,000 above the base year amount from the
20 creation of new jobs up to the amount specified and any other
21 conditions required by the department and specified in the
22 commitment letter, the taxpayer shall receive a manufacturing
23 tax credit certificate and filing information.

24 (d) Applicable taxes.--A taxpayer may apply the
25 manufacturing tax credit to 100% of the taxpayer's qualified tax
26 liability.

27 (e) Term.--A taxpayer may claim the manufacturing tax credit
28 for a period determined by the department, not to exceed the
29 earlier of:

30 (1) five years from the date the taxpayer receives the

1 manufacturing tax credit certificate; or

2 (2) six years from the start date.

3 (f) Availability.--A manufacturing tax credit shall be made
4 available by the department on a first-come, first-served basis.

5 (g) Limitation.--The following shall apply:

6 (1) For [each] the fiscal year beginning [after June 30,
7 2017,] July 1, 2017, and ending June 30, 2018, \$4,000,000 in
8 manufacturing tax credits shall be made available to the
9 department and may be awarded by the department in accordance
10 with this part. [In any fiscal year, the department may
11 reissue, assign or award prior fiscal year manufacturing tax
12 credits which have been recaptured under section 1808-G(a) or
13 (b) and may award prior fiscal year manufacturing tax credits
14 not previously issued.]

15 (2) For each fiscal year beginning after June 30, 2018,
16 the following shall apply:

17 (i) Ten million five hundred thousand dollars in
18 manufacturing tax credits shall be made available to the
19 department and may be awarded by the department in
20 accordance with this part. In any fiscal year, the
21 department may reissue, assign or award prior fiscal year
22 manufacturing tax credits which have been recaptured
23 under section 1808-G(a) or (b) and may award prior fiscal
24 year manufacturing tax credits not previously issued.

25 (ii) No less than \$2,500,000 of the tax credits
26 authorized under this part shall be restricted to
27 taxpayers that are diverse and disadvantaged businesses
28 or are claiming a credit for new jobs created in an
29 economically distressed municipality. For taxpayers
30 comprised of a group of entities to meet the requirements

1 of this paragraph, a majority of the increase in the
2 taxpayers' annual taxable payroll must be attributable to
3 entities that are diverse and disadvantaged businesses or
4 have created new jobs in economically distressed
5 municipalities.

6 Section 3. Article XVIII-G of the act is amended by adding a
7 part to read:

8 PART III

9 WORKFORCE DEVELOPMENT TAX CREDIT

10 Section 1841-G. Definitions.

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

14 "Department." The Department of Community and Economic
15 Development of the Commonwealth.

16 "Diverse and disadvantaged businesses." The term as defined
17 in 62 Pa.C.S. § 2201 (relating to definitions).

18 "Economically distressed municipality." A municipality that
19 meets any of the following criteria:

20 (1) Is a municipality which has been determined to be
21 financially distressed under section 203(f) of the act of
22 July 10, 1987 (P.L.246, No.47), known as the Municipalities
23 Financial Recovery Act.

24 (2) Is a city, borough, town or township with a market
25 value per capita below the fifth percentile of all such
26 cities, boroughs, towns and townships, as certified annually
27 by the State Tax Equalization Board.

28 (3) Is located in a county having a personal income per
29 capita below the 15th percentile of all counties, as
30 certified annually by the Department of Revenue.

1 (4) Is located in a county having an annual average
2 unemployment rate above the 70th percentile of all counties,
3 as determined annually by the Department of Labor and
4 Industry.

5 "Employee." A new hire or existing employee for whom a
6 taxpayer makes a workforce development investment to prepare the
7 new hire or existing employee to perform a full-time job in the
8 manufacturing sector which has an average wage at least equal to
9 the county average wage where the job is located and which
10 includes employer-provided health benefits.

11 "Manufacturing." The mechanical, physical or chemical
12 transformation of materials, substances or components into new
13 products that are creations of new items of tangible personal
14 property for sale.

15 "Pass-through entity." Any of the following:

16 (1) A partnership as defined in section 301(n.0).

17 (2) A Pennsylvania S corporation as defined in section
18 301(n.1).

19 (3) An unincorporated entity subject to section 307.21.

20 "Qualified tax liability." A taxpayer's tax liability under
21 Article III, IV, VI, VII, VIII, IX, XI or XV.

22 "Taxpayer." An entity that is engaged in the business of
23 manufacturing in this Commonwealth.

24 "Workforce development." Information access, lifelong
25 learning and employee training and retraining programs. The term
26 includes:

27 (1) vocational education programs;

28 (2) programs in community colleges, technical colleges
29 and postsecondary education institutions authorized to grant
30 diplomas and certificates and specialized associate,

1 associate, baccalaureate and advanced degrees; and

2 (3) transitional support and work support services or
3 activities which enable a taxpayer's new hires and current
4 employees to engage in or prepare for job related functions.

5 "Workforce development tax credit." A tax credit for which
6 the department has issued a certificate under this part.

7 Section 1842-G. Eligibility.

8 In order to be eligible to receive a workforce development
9 tax credit, a taxpayer must demonstrate to the department the
10 following:

11 (1) A workforce development investment in its employees
12 of at least \$50,000.

13 (2) The ability to maintain the jobs for which the
14 workforce development investment was made for a period of at
15 least five years from the start date.

16 (3) The intent to maintain existing operations in this
17 Commonwealth for a period of at least five years from the
18 start date.

19 Section 1843-G. Procedure.

20 (a) Application.--A taxpayer applying to claim a workforce
21 development tax credit must complete and submit to the
22 department a workforce development tax credit application on a
23 form and in a manner as determined by the department.

24 (b) Approval.--If the department approves the taxpayer's
25 application, the department and the taxpayer shall execute a
26 commitment letter containing the following:

27 (1) A description of the jobs that require an investment
28 in workforce development.

29 (2) The number of jobs for which the taxpayer made a
30 workforce development investment.

1 (3) The amount of taxpayer's private capital invested in
2 workforce development.

3 (4) A description of the workforce development training
4 undergone by the taxpayer's employees.

5 (5) The maximum workforce development tax credit amount
6 the taxpayer may claim.

7 (6) A signed statement that the taxpayer intends to
8 maintain existing operations in this Commonwealth for at
9 least five years from the start date.

10 (7) Any other information as the department deems
11 appropriate.

12 (c) Commitment letter.--After a commitment letter has been
13 signed by both the Commonwealth and the taxpayer, the taxpayer
14 must maintain the jobs for which the workforce development
15 investment was made for a period of at least five years and
16 continue operations in this Commonwealth for a period of five
17 years. If the taxpayer does not maintain the jobs for which the
18 workforce development investment was made or ceases operations
19 in this Commonwealth as provided for under this subsection, the
20 commitment letter shall be revoked and deemed to be null and
21 void.

22 Section 1844-G. Workforce development tax credit.

23 (a) Maximum amount.--The department may award a workforce
24 development tax credit of up to \$100,000 or 50% of the
25 taxpayer's workforce development investment specified in
26 section 1843-G, whichever is less.

27 (b) Certificate.--After verification by the department that
28 the taxpayer has made an eligible workforce development
29 investment of at least \$50,000 and any other conditions required
30 by the department and specified in the commitment letter, the

1 taxpayer shall receive a workforce development tax credit
2 certificate and filing information.

3 (c) Applicable taxes.--A taxpayer may apply the workforce
4 development tax credit to 100% of the taxpayer's qualified tax
5 liability.

6 (d) Availability.--A workforce development tax credit shall
7 be made available by the department on a first-come, first-
8 served basis.

9 (e) Limitation.--The following shall apply:

10 (1) For each fiscal year beginning after June 30, 2018,
11 \$2,000,000 in workforce development tax credits shall be made
12 available to the department and may be awarded by the
13 department in accordance with this part. In any fiscal year,
14 the department may reissue, assign or award prior fiscal year
15 workforce development tax credits which have been recaptured
16 under section 1848-G(a) or (b) and may award prior fiscal
17 year workforce development tax credits not previously issued.

18 (2) For each fiscal year beginning after June 30, 2018,
19 no less than \$250,000 of the workforce development tax
20 credits authorized under this part shall be restricted to
21 taxpayers that are diverse and disadvantaged businesses or
22 are claiming a credit for workforce development in an
23 economically distressed municipality.

24 Section 1845-G. Limitations.

25 The following shall apply to workforce development tax
26 credits:

27 (1) If a taxpayer cannot use the entire amount of the
28 workforce development tax credit for the taxable year in
29 which the workforce development tax credit is first approved,
30 the excess may be carried over to succeeding taxable years

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

11 (2) A workforce development tax credit approved by the
12 department in a taxable year shall first be applied against a
13 taxpayer's qualified tax liability for the current taxable
14 year as of the date on which the credit was approved before
15 the workforce development tax credit can be applied against
16 any tax liability under paragraph (1).

17 (3) A taxpayer shall not be entitled to carry back or
18 obtain a refund of all or any portion of an unused workforce
19 development tax credit granted to the taxpayer under this
20 part.

21 Section 1846-G. Sale or assignment.

22 (a) Application.--A taxpayer, upon application to and
23 approval by the department, may sell or assign, in whole or in
24 part, a workforce development tax credit granted to the
25 taxpayer. The following shall apply:

26 (1) The department and the Department of Revenue shall
27 jointly issue guidelines for the approval of applications
28 under this subsection.

29 (2) Before an application is approved, the Department of
30 Revenue must make a finding that the applicant has filed all

1 required State tax reports and returns for all applicable
2 taxable years and paid any balance of State tax due as
3 determined at settlement, assessment or determination by the
4 Department of Revenue.

5 (3) Notwithstanding any other provision of law, the
6 Department of Revenue must settle, assess or determine the
7 tax of an applicant under this subsection within 90 days of
8 the filing of each required final return or report in
9 accordance with section 806.1(a)(5) of the act of April 9,
10 1929 (P.L.343, No.176), known as The Fiscal Code.

11 (b) Use by purchaser or assignee.--The purchaser or assignee
12 of all or a portion of a workforce development tax credit under
13 subsection (a) must immediately claim the credit in the taxable
14 year in which the purchase or assignment is made. The following
15 shall apply:

16 (1) The amount of the workforce development tax credit
17 that a purchaser or assignee may use against any one
18 qualified tax liability may not exceed 50% of the qualified
19 tax liability for the taxable year.

20 (2) The purchaser or assignee may not carry forward,
21 carry back or obtain a refund of or sell or assign the
22 workforce development tax credit.

23 (3) The purchaser or assignee shall notify the
24 Department of Revenue of the seller or assignor of the
25 workforce development tax credit in compliance with
26 procedures specified by the Department of Revenue.

27 Section 1847-G. Pass-through entity.

28 (a) General rule.--If a pass-through entity has any unused
29 tax credits under section 1845-G, the entity may elect in
30 writing, according to procedures established by the Department

1 of Revenue, to transfer all or a portion of the credit to
2 shareholders, members of partners in proportion of the share of
3 the entity's distributive income to which the shareholder,
4 member or partner is entitled.

5 (b) Limitation.--A pass-through entity and a shareholder,
6 member or partner of a pass-through entity may not claim the
7 credit under subsection (a) for the same workforce development
8 investment.

9 (c) Application.--A shareholder, member or partner of a
10 pass-through entity to whom a credit is transferred under
11 subsection (a) shall immediately claim the credit in the taxable
12 year in which the transfer is made. The shareholder, member or
13 partner may not carry forward, carry back, obtain a refund of or
14 sell or assign the credit.

15 Section 1848-G. Penalties.

16 (a) Failure to maintain operations.--A taxpayer that
17 receives a workforce development tax credit and fails to
18 maintain existing operations related to the workforce
19 development tax credits in this Commonwealth for a period of at
20 least five years from the date the certificate is issued under
21 section 1844-G(b) must refund to the Commonwealth the total
22 amount of workforce development tax credits granted. The
23 Department of Revenue may issue an assessment, including
24 interest, additions and penalties, for the total amount of each
25 workforce development tax credit to be refunded to the
26 Commonwealth.

27 (b) Failure to maintain jobs.--A taxpayer which receives a
28 workforce development tax credit and fails to maintain the jobs
29 related to the workforce development tax credits for a period of
30 at least five years from the date the certificate is issued

1 under section 1844-G(b) must refund to the Commonwealth the
2 total amount of workforce development tax credits granted. The
3 Department of Revenue may issue an assessment, including
4 interest, additions and penalties, for the total amount of
5 workforce development tax credits to be refunded to the
6 Commonwealth.

7 (c) Waiver.--The department may waive the penalties under
8 subsections (a) and (b) if it is determined that a taxpayer's
9 existing operations and jobs were not maintained because of
10 circumstances beyond the taxpayer's control. Circumstances shall
11 include natural disasters, unforeseen industry trends or a loss
12 of a major supplier or market.

13 Section 1849-G. Guidelines.

14 The department shall develop and publish guidelines necessary
15 to implement this part.

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