
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1208 Session of
2019

INTRODUCED BY CARROLL, KINSEY, MURT, HILL-EVANS, SCHLOSSBERG,
DONATUCCI, PETRARCA, RYAN, MULLINS, McNEILL, CALTAGIRONE,
NEILSON AND READSHAW, APRIL 15, 2019

REFERRED TO COMMITTEE ON COMMERCE, APRIL 15, 2019

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 airport land development zones.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
14 the Tax Reform Code of 1971, is amended by adding an article to
15 read:

16 ARTICLE XIX-G

17 AIRPORT LAND DEVELOPMENT ZONES

18 Section 1901-G. Definitions.

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

1 "Affiliate." As follows:

2 (1) an entity which is part of the same affiliated group
3 as defined in section 1504(a) of the Internal Revenue Code of
4 1986 (Public Law 99-514, 26 U.S.C. § 1504(a)), as an airport
5 land development zone employer; or

6 (2) an entity that would be part of the same affiliated
7 group except that the entity or the airport land development
8 zone employer is not a corporation.

9 "Airport." A publicly owned commercial service airport or an
10 airport that is owned by the same entity that owns the publicly
11 owned commercial service airport.

12 "Airport land development zone." As follows:

13 (1) An area of no more than 300 acres, consisting of
14 parcels of real property that are owned or controlled by an
15 airport or leased as provided under paragraph (2), that as of
16 December 31, 2019, had no permanent vertical structures
17 affixed or the buildings are vacant with no business located
18 in the structure.

19 (2) A parcel of real property in the zone may be leased
20 or ground leased to a third party, except that the airport
21 must maintain ownership or control of the parcel for the life
22 of the program in order to qualify.

23 "Airport land development zone employer." A person or entity
24 subject to the taxes imposed under Article III, IV, VI, VII,
25 VIII or XV who employs at least one employee in an airport land
26 development zone. The term shall include a pass-through entity.
27 The term shall not include an employer engaged in construction
28 improvements in an airport land development zone.

29 "Airport land development zone plan." The document submitted
30 to the department that details the parcels included in the

1 airport land development zone by an airport. The plan shall
2 include the following:

3 (1) A legal description, identification number and
4 acreage of each parcel included in the zone.

5 (2) Certification that demonstrates that any building on
6 a parcel included in the zone was vacant or the parcel had no
7 permanent, vertical structures affixed to the parcel before
8 December 31, 2019.

9 (3) A map and pictures of each parcel included in the
10 plan.

11 (4) A written description of planned and potential uses
12 for parcels in the zone.

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

15 "Employee." An individual who meets all of the following:

16 (1) Is employed in this Commonwealth by an airport land
17 development zone employer or its predecessor after the
18 effective date of this section.

19 (2) Is employed for at least 35 hours per week by an
20 airport land development zone employer.

21 (3) Spends at least 90% of the individual's working time
22 for the airport land development zone employer at the airport
23 land development zone location.

24 "Full-time equivalent employee." As follows:

25 (1) The whole number of employees, rounded down, that
26 equals the sum of:

27 (i) the total paid hours, including paid time off
28 and family leave under the Family and Medical Leave Act
29 of 1993 (Public Law 103-3, 29 U.S.C. § 2601 et seq.), of
30 all of a airport land development zone employer's

1 employees classified as nonexempt during the airport land
2 development zone employer's tax year divided by 2,000;
3 and

4 (ii) a total number arrived at by adding, for each
5 airport land development zone employer's employee
6 classified as exempt scheduled to work at least 35 hours
7 per week, the fraction equal to the portion of the year
8 the exempt employee was paid by the airport land
9 development zone employer. Whether an employee shall be
10 classified as exempt or nonexempt shall be determined
11 under the Fair Labor Standards Act of 1938 (52 Stat.
12 1060, 29 U.S.C. § 201 et seq.).

13 (2) The calculation under paragraph (1) shall exclude
14 employees previously employed by an affiliate and employees
15 previously employed by the airport land development zone
16 employer outside of an airport land development zone.

17 "Pass-through entity." A partnership as defined in section
18 301(n.0) or a Pennsylvania S corporation as defined in section
19 301(n.1).

20 "Plan." An airport land development zone plan.

21 "Program." The airport land development zone program
22 established under section 1902-G.

23 "Qualified tax liability." A tax owed by an airport land
24 development zone employer attributable to a business activity
25 conducted within a airport land development zone for a tax year
26 under Article III, IV, VI, VII, VIII or XV.

27 "Zone." An airport land development zone.

28 Section 1902-G. Airport land development zone program.

29 The airport land development zone program is established to
30 encourage and promote the creation of new jobs in this

1 Commonwealth on land and buildings owned by airports in this
2 Commonwealth. The program shall accelerate economic activity at
3 and around airports on undeveloped land or vacant buildings
4 owned by airports in this Commonwealth.

5 Section 1903-G. Application and plan.

6 (a) Application.--Within four months of the effective date
7 of this section, the department shall publish guidelines and an
8 application for the program.

9 (b) Time for filing plan.--Each airport shall have up to 12
10 months from the date the guidelines and application are
11 published by the department to develop and file a plan. If an
12 airport fails to file a plan within the time period, the airport
13 shall be ineligible for the program.

14 (c) Approval of plan.--Upon receipt of an airport land
15 development zone plan submitted by an airport under subsection
16 (b), the department shall have 60 calendar days to review the
17 plan for appropriateness and conformity with this article and
18 approve or deny the plan.

19 (d) Notification.--If an airport land development zone plan
20 submitted by an airport under subsection (b) is approved, the
21 department shall notify the Department of Revenue of parcels
22 included in the zone.

23 (e) Change.--An airport may change the airport land
24 development plan by subdividing a parcel, changing the legal
25 description of a parcel, moving the zone designation to another
26 qualifying parcel or making physical changes to a vacant
27 building in the zone by adding to the building's size or
28 reducing the building's size after the plan has been approved.
29 If an airport chooses to make the changes, the airport shall
30 notify the department and the Department of Revenue of the

1 change. The department shall issue a document confirming the
2 parcel changes and provide a new list of parcels.

3 Section 1904-G. Airport land development zone tax credit.

4 (a) Tax credit.--An airport land development zone employer
5 may claim a tax credit against a qualified tax liability as
6 provided under this article.

7 (b) Process.--

8 (1) An airport land development zone employer shall
9 notify the department of the airport land development zone
10 employer's qualification for a tax credit under this section
11 by February 1 for tax credits earned during a taxable year
12 ending in the prior calendar year.

13 (2) The notification under paragraph (1) shall contain
14 the following:

15 (i) The name, address and taxpayer identification
16 number of the airport land development zone employer.

17 (ii) Verification that the airport land development
18 zone employer is an airport land development zone
19 employer located in an airport land development zone.

20 (iii) The names, addresses and Social Security
21 numbers of each employee for which the credit is claimed.

22 (iv) Verification that each employee identified in
23 subparagraph (iii) spent at least 90% of the employee's
24 working time for the airport land development zone
25 employer at the employer's airport land development zone
26 location.

27 (v) Any other information required by the
28 department.

29 (3) To qualify for the credit, the Department of Revenue
30 must certify that the airport land development zone employer

1 is current with all tax liabilities.

2 (4) By March 1 of each year, the department shall send
3 the airport land development zone employer who submitted the
4 notification a certificate of the airport land development
5 zone employer's qualification for the credit. The airport
6 land development zone employer shall present the certificate
7 to the Department of Revenue when filing the airport land
8 development zone employer's return claiming the credit.

9 (c) Amount.--The amount of the tax credit an airport land
10 development zone employer may earn in any tax year shall be
11 equal to \$2,100 for each full-time equivalent employee in excess
12 of the number of full-time equivalent employees employed by the
13 airport land development zone employer prior to January 1, 2020.

14 (d) Application of tax credits.--An airport land development
15 zone employer must first use the airport land development zone
16 employer's airport land development zone tax credit against the
17 airport land development zone employer's qualified tax
18 liability.

19 (d.1) Sale or assignment of tax credit.--

20 (1) If the airport land development zone employer is
21 entitled to a credit in any year that exceeds the airport
22 land development zone employer's qualified tax liability for
23 that year, upon application to and approval by the
24 department, an airport land development zone employer that
25 has been awarded a tax credit may sell or assign, in whole or
26 in part, the tax credit granted to the airport land
27 development zone employer. The application must be on the
28 form required by the department and must include or
29 demonstrate all of the following:

30 (i) The applicant's name and address.

1 (ii) A copy of the tax credit certificate previously
2 issued by the department.

3 (iii) A statement as to whether any part of the tax
4 credit has been applied to tax liability of the applicant
5 and the amount so applied.

6 (iv) Any other information required by the
7 department.

8 (2) The department shall review the application and, if
9 all requirements have been met, approve the application and
10 notify the Department of Revenue.

11 (3) The purchaser or assignee of all or a portion of an
12 airport land development zone tax credit under this section
13 shall claim the credit in the taxable year in which the
14 purchase or assignment is made. The purchaser or assignee of
15 a tax credit may use the tax credit against any tax liability
16 of the purchaser or assignee under Article III, IV, VI, VII,
17 VIII or XV. The amount of the tax credit used may not exceed
18 75% of the purchaser's or assignee's tax liability for the
19 taxable year. The purchaser or assignee may not carry over,
20 carry back, obtain a refund of or assign the airport land
21 development zone credit. The purchaser or assignee shall
22 notify the department and the Department of Revenue of the
23 seller or assignor of the airport land development zone tax
24 credit in compliance with procedures specified by the
25 department.

26 (e) Use and carryforward.--

27 (1) An airport land development zone employer may earn
28 the tax credit allowed under this article in any tax year
29 beginning in 2020 and for a period of up to 10 tax years
30 during the 20-year period beginning July 1, 2019, and ending

1 June 30, 2039.

2 (2) An airport land development zone employer may carry
3 forward for up to 10 years a tax credit earned under this
4 article:

5 (i) which the airport land development zone employer
6 is unable to use; or

7 (ii) which the airport land development zone
8 employer does not sell or assign.

9 (3) Tax credits carried forward under paragraph (2)
10 shall be used on a first-in, first-out basis.

11 (f) Dual-use prohibited.--Each year, an airport land
12 development zone employer may only earn tax credits under
13 subsection (c) or (d) or under the act of October 6, 1998
14 (P.L.705, No.92), known as the Keystone Opportunity Zone,
15 Keystone Opportunity Expansion Zone and Keystone Opportunity
16 Improvement Zone Act. An airport land development zone employer
17 may not claim a credit under both this section and Article
18 XVIII-B.

19 (g) Pass-through entities.--

20 (1) If an airport land development zone employer is a
21 pass-through entity and has an unused tax credit under
22 subsection (c), (d) or (e), the airport land development zone
23 employer may elect in writing, according to procedures
24 established by the Department of Revenue, to transfer all or
25 a portion of the credit to shareholders, members or partners
26 in proportion to the share of the entity's distributive
27 income to which the shareholder, member or partner is
28 entitled.

29 (2) An airport land development zone employer that is a
30 pass-through entity and a shareholder, member or partner of

1 that airport land development zone employer may not both
2 claim the airport land development zone tax credit earned by
3 the airport land development zone employer for any tax year.

4 (3) A shareholder, member or partner of an airport land
5 development zone employer that is a pass-through entity to
6 whom a credit is transferred under this subsection shall
7 immediately claim the credit in the taxable year in which the
8 transfer is made.

9 (h) Transfer.--A tax credit or tax credit carryforward that
10 an airport land development zone employer is entitled to use may
11 be transferred to a successor entity of the airport land
12 development zone employer.

13 (i) Penalties.--The following apply:

14 (1) A company which receives airport land development
15 zone tax credits and fails to substantially maintain the
16 operations related to the airport land development zone tax
17 credits in this Commonwealth for a period of five years from
18 the date the company first submits an airport land
19 development zone tax credit certificate to the Department of
20 Revenue shall be required to refund to the Commonwealth the
21 total amount of credits granted.

22 (2) The department may waive the penalties under
23 subsection (1) if it is determined that a company's
24 operations were not maintained or the new jobs were not
25 created because of circumstances beyond the company's
26 control. Circumstances shall include natural disasters,
27 unforeseen industry trends or a loss of a major supplier or
28 market.

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