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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1848 Session of  
2019

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INTRODUCED BY LEWIS, STEPHENS, ZIMMERMAN, CALTAGIRONE, READSHAW  
AND NEILSON, SEPTEMBER 23, 2019

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REFERRED TO COMMITTEE ON FINANCE, SEPTEMBER 23, 2019

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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 a long-term care insurance 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-L

18 LONG-TERM CARE INSURANCE TAX CREDIT

19 Section 1701-L. Scope of article.

20 This article relates to long-term care insurance tax credits.

21 Section 1702-L. 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 "Department." The Department of Revenue of the Commonwealth.

4 "Long-term care insurance." An insurance policy, offered to  
5 an employee by an employer, to provide coverage when long-term  
6 care is needed, including chronic illness or disability and  
7 expenses for a nursing home, an assisted living facility, home  
8 care, a visiting nurse, a home health aide, a friendly visitor  
9 program, home-delivered meals, chore services, adult day-care  
10 centers or respite services.

11 "Long-term care insurance expenses." Expenses associated  
12 with providing long-term care insurance or the cost of long-term  
13 care insurance premiums.

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

15 (1) A partnership, limited partnership, limited  
16 liability company, business trust or other unincorporated  
17 entity that for Federal income tax purposes is taxable as a  
18 partnership.

19 (2) A Pennsylvania S corporation.

20 "Qualified tax liability." The liability for taxes imposed  
21 under Article III or IV. The term shall include the liability  
22 for taxes imposed under Article III on an owner of a pass-  
23 through entity.

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

25 "Small business." An employer who employed an average of  
26 fewer than 50 full-time equivalent employees during the  
27 immediately preceding taxable year.

28 "Tax credit." The long-term care insurance tax credit  
29 authorized under this article.

30 "Taxpayer." A person subject to tax under Article III or IV.

1 The term includes the shareholder, owner or member of a pass-  
2 through entity that receives a tax credit.

3 Section 1703-L. Tax credit for long-term care insurance.

4 (a) Application.--A taxpayer who purchases long-term care  
5 insurance in a taxable year may apply for a tax credit as  
6 provided under this article. By September 15, 2021, and each  
7 September 15 thereafter, a taxpayer must submit an application  
8 to the department for long-term care insurance expenses incurred  
9 in the taxable year that ended in the prior calendar year.

10 (b) Amount.--A taxpayer that is qualified under subsection  
11 (a) shall receive a tax credit for the taxable year in the  
12 amount of 30% of the long-term care insurance expenses incurred  
13 by the taxpayer during the taxable year.

14 (c) Notification.--By December 15, 2021, and each December  
15 15 thereafter, following the close of the taxable year during  
16 which the long-term care insurance expense was incurred, the  
17 department shall notify the taxpayer of the amount of the  
18 taxpayer's tax credit approved by the department.

19 Section 1704-L. Carryover, carryback, refund and assignment of  
20 tax credit.

21 (a) Tax credit.--If the taxpayer cannot use the entire  
22 amount of the tax credit for the taxable year in which the tax  
23 credit is first approved, the excess may be carried over to  
24 succeeding taxable years and used as a tax credit against the  
25 qualified tax liability of the taxpayer for those taxable years.  
26 Each time the tax credit is carried over to a succeeding taxable  
27 year, it is to be reduced by the amount that was used as a tax  
28 credit during the immediately preceding taxable year. The tax  
29 credit may be carried over and applied to succeeding taxable  
30 years for no more than 15 taxable years following the first

1 taxable year for which the taxpayer was entitled to claim the  
2 tax credit.

3 (b) Application.--A tax credit approved by the department  
4 for long-term care insurance expenses in a taxable year first  
5 shall be applied against the taxpayer's qualified tax liability  
6 for the current taxable year as of the date on which the tax  
7 credit was approved before the tax credit is applied against any  
8 tax liability under subsection (a).

9 (c) Prohibition.--A taxpayer is not entitled to assign,  
10 carry back or obtain a refund of an unused tax credit.

11 Section 1705-L. Limitation on tax credits.

12 (a) Total.--The total amount of tax credits approved by the  
13 department may not exceed \$20,000,000 in any fiscal year. Of  
14 that amount, \$5,000,000 shall be allocated exclusively for small  
15 businesses. If the total amount allocated to either the group of  
16 applicants, exclusive of small businesses, or the group of small  
17 business applicants is not approved in any fiscal year, the  
18 unused portion shall become available for use by the remaining  
19 qualifying taxpayers.

20 (b) Proration among all applicants.--If the total amount of  
21 tax credits applied for by all applicants, exclusive of small  
22 businesses, exceeds the amount allocated for those tax credits,  
23 then the tax credit to be received by each applicant shall be  
24 prorated by the department among all applicants, exclusive of  
25 small businesses, who have qualified for the tax credit.

26 (c) Proration among small business applicants.--If the total  
27 amount of tax credits applied for by all small businesses  
28 exceeds the amount allocated for those tax credits, then the tax  
29 credit to be received by each small business applicant shall be  
30 prorated by the department among all small business applicants

1 who have qualified for the tax credit.

2 Section 1706-L. Shareholder, owner or member pass-through.

3 (a) Pennsylvania S corporation shareholder.--If a

4 Pennsylvania S corporation does not have an eligible tax

5 liability against which the tax credit may be applied, a

6 shareholder of the Pennsylvania S corporation shall be entitled

7 to a tax credit equal to the tax credit determined for the

8 Pennsylvania S corporation for the taxable year multiplied by

9 the percentage of the Pennsylvania S corporation's distributive

10 income to which the shareholder is entitled.

11 (b) Pass-through entity owner or member.--If a pass-through

12 entity other than a Pennsylvania S corporation does not have an

13 eligible tax liability against which the tax credit may be

14 applied, an owner or member of the pass-through entity is

15 entitled to a tax credit equal to the tax credit determined for

16 the pass-through entity for the taxable year multiplied by the

17 percentage of the pass-through entity's distributive income to

18 which the owner or member is entitled.

19 (c) Additional tax credit.--The tax credit provided under

20 subsection (a) or (b) shall be in addition to any tax credit to

21 which a shareholder, owner or member of a pass-through entity is

22 otherwise entitled under this article, except that a pass-

23 through entity and a shareholder, owner or member of a pass-

24 through entity may not claim a tax credit under this article for

25 the same long-term care insurance expense.

26 Section 1707-L. Report to General Assembly.

27 The secretary shall submit an annual report to the General

28 Assembly indicating the effectiveness of the tax credit provided

29 by this article no later than March 15 following the year in

30 which the tax credits were approved. The report shall include

1 the names of all taxpayers utilizing the tax credit as of the  
2 date of the report and the amount of tax credits approved and  
3 utilized by each taxpayer. Notwithstanding any law providing for  
4 the confidentiality of tax records, the information contained in  
5 the report shall be public information. The report may also  
6 include any recommendations for changes in the calculation or  
7 administration of the tax credit.

8 Section 1708-L. Termination.

9 The department may not approve a tax credit under this  
10 article for taxable years ending after December 31, 2029.

11 Section 1709-L. Regulations.

12 The secretary shall promulgate regulations necessary for the  
13 implementation and administration of this article.

14 Section 2. The addition of Article XVII-L of the act shall  
15 apply to taxable years beginning after December 31, 2018.

16 Section 3. This act shall take effect in 60 days.