

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 74 Session of 2019

INTRODUCED BY MARTIN, AUMENT, COSTA, DINNIMAN, K. WARD, MENSCH, KILLION, REGAN, FONTANA, BREWSTER, BLAKE AND BOSCOLA, MARCH 4, 2019

AS AMENDED ON SECOND CONSIDERATION, OCTOBER 29, 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 pediatric cancer research 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:

ARTICLE XVII-L

PEDIATRIC CANCER RESEARCH TAX CREDIT

19 Section 1701-L. Scope of article.

20 This article relates to pediatric cancer research tax
21 credits.

22 Section 1702-L. Definitions.

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

4 "Business firm." An entity authorized to do business in this
5 Commonwealth and subject to taxes imposed under Article III, IV,
6 ~~VI~~, VII, VIII, IX or XV. The term includes a pass-through <--
7 entity.

8 "Contribution." A donation of cash TO A PEDIATRIC CANCER <--
9 RESEARCH INSTITUTION.

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

11 "Pass-through entity." A partnership as defined under
12 section 301(n.0) or a Pennsylvania S corporation as defined
13 under section 301(n.1).

14 "Pediatric cancer research institution." Any of the
15 following:

16 (1) The Center for Childhood Research at the Children's
17 Hospital of Philadelphia.

18 (2) Penn State Hershey Pediatric Hematology/Oncology.

19 (3) Abramson Cancer Center, Penn Medicine.

20 (4) The UPMC Children's Hospital of Pittsburgh.

21 "Tax credit." A tax credit for pediatric cancer research
22 authorized under this article.

23 Section 1703-L. Pediatric cancer research tax credit.

24 A tax credit shall be granted to a business firm that meets
25 the requirements under this article for the purposes of funding
26 pediatric cancer research in this Commonwealth.

27 Section 1704-L. Restriction on use of contributions.

28 The contributions received by a pediatric cancer research
29 center from a business firm claiming a tax credit must be used
30 exclusively for pediatric cancer research.

1 Section 1705-L. Availability of tax credits.

2 (a) Application.--A business firm may submit an application
3 to the department for a tax credit. A business firm may receive
4 a tax credit if a pediatric cancer research institution receives
5 a contribution from the business firm as determined by the
6 department and in accordance with this article.

7 (b) Tax credit availability.--Tax credits under this section
8 shall be made available by the department on a first-come,
9 first-served basis.

10 (c) Contributions.--A contribution by a business firm to a
11 pediatric cancer research center shall be made no later than 30
12 days after the business firm receives notice of the approval of
13 the application under section 1707-L(b).

14 (D) APPLICATION IN THE ALTERNATIVE.--AT THE TIME OF <--
15 APPLICATION FOR A TAX CREDIT, THE DEPARTMENT SHALL ADVISE A
16 BUSINESS FIRM THAT THE FIRM MAY ELECT THAT ITS APPLICATION FOR A
17 TAX CREDIT FOR A CONTRIBUTION TO A PARTICULAR PEDIATRIC CANCER
18 RESEARCH INSTITUTION WILL, IN THE ALTERNATIVE, BE DEEMED AN
19 APPLICATION RECEIVED BY THE DEPARTMENT ON THE SAME DATE AS THE
20 PREFERRED APPLICATION, BUT FOR A DIFFERENT PEDIATRIC CANCER
21 RESEARCH INSTITUTION AUTHORIZED UNDER THIS ARTICLE IF THE
22 BUSINESS FIRM'S PREFERRED CHOICE OF PEDIATRIC CANCER RESEARCH
23 INSTITUTION HAS REACHED THE \$2,500,000 LIMIT UNDER SECTION 1709-
24 L. IF A BUSINESS FIRM DOES NOT RECEIVE ITS PREFERRED CHOICE OF
25 PEDIATRIC CANCER RESEARCH INSTITUTION, THE DEPARTMENT SHALL
26 PROMPTLY CONSIDER THE BUSINESS FIRM'S APPLICATION IN THE
27 ALTERNATIVE FOR A DIFFERENT PEDIATRIC CANCER RESEARCH
28 INSTITUTION AUTHORIZED UNDER THIS ARTICLE.

29 Section 1706-L. Duties of department.

30 The department shall have the following duties:

1 (1) Promulgating regulations necessary to implement this
2 article.

3 (2) Creating and publishing forms upon which business
4 firms may apply for the tax credit under this article.

5 (3) Approving or disapproving applications submitted by
6 business firms and providing notice of the approval or
7 disapproval to applicants under section 1707-L(b).

8 (4) Granting tax credit certificates in accordance with
9 section 1708-L.

10 Section 1707-L. Procedures.

11 (a) Deadline for filing applications.--Applications for a
12 tax credit under this article shall be filed not later than
13 December 31.

14 (b) Notice.--

15 (1) The department shall notify the business firm
16 regarding the authorization of tax credits and its
17 determination, including the amount of the credit available.

18 (2) The department may return an incomplete application
19 to the business firm or request additional information,
20 documents or signatures from the business firm.

21 (c) Appeals.--Appeals from determinations made under
22 subsection (b) shall be made through the administrative
23 provisions of this act, applicable to the particular taxes
24 against which the business firm or its members, shareholders or
25 beneficiaries PARTNERS claim the tax credits.

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26 Section 1708-L. Grant of tax credit certificates.

27 In accordance with section 1709-L(a), the department shall
28 grant a tax credit certificate to a business firm eligible to
29 receive a tax credit in accordance with this article. The
30 certificate may be used against a tax liability owed to the

1 department by a business firm that provides proof of a
2 contribution to a pediatric cancer research center in the
3 taxable year in which the contribution is made. The business
4 firm may apply the credit against any tax due under Article III,
5 IV, ~~VI~~, VII, VIII, IX or XV, excluding any tax withheld by an <--
6 employer under Article III.

7 Section 1709-L. Amount of tax credits.

8 (a) General rule.--The total aggregate amount of all tax
9 credits approved shall not exceed \$10,000,000 in a fiscal year.
10 A tax credit may not be approved in excess of \$2,500,000 in a
11 fiscal year for contributions to any one pediatric cancer
12 research center.

13 (b) Activities.--No tax credit shall be approved for
14 activities that are part of a business firm's normal course of
15 business.

16 (c) Tax liability. A tax credit granted for any one taxable <--
17 year may not exceed the tax liability of a business firm.

18 (d) Unused tax credits. A tax credit not used in the
19 taxable year the contribution was made may not be carried
20 forward or carried back and may not be refundable or
21 transferable.

22 SECTION 1710-L. CARRYOVER AND CARRYBACK. <--

23 (A) GENERAL RULE.--IF A BUSINESS FIRM DOES NOT USE ALL OR
24 ANY PORTION OF A TAX CREDIT FOR THE TAXABLE YEAR IN WHICH THE
25 TAX CREDIT IS FIRST APPROVED, THEN THE EXCESS MAY BE CARRIED
26 OVER TO SUCCEEDING TAXABLE YEARS AND USED AS A CREDIT AGAINST
27 THE QUALIFIED TAX LIABILITY OF THE BUSINESS FIRM FOR THOSE
28 TAXABLE YEARS. EACH TIME THE TAX CREDIT IS CARRIED OVER TO A
29 SUCCEEDING TAXABLE YEAR, IT SHALL BE REDUCED BY THE AMOUNT THAT
30 WAS USED AS A CREDIT DURING THE IMMEDIATELY PRECEDING TAXABLE

1 YEAR. THE TAX CREDIT PROVIDED BY THIS ARTICLE MAY BE CARRIED
2 OVER AND APPLIED TO SUCCEEDING TAXABLE YEARS FOR NO MORE THAN
3 THREE TAXABLE YEARS FOLLOWING THE FIRST TAXABLE YEAR FOR WHICH
4 THE TAXPAYER WAS ENTITLED TO CLAIM THE CREDIT.

5 (B) APPLICATION.--A TAX CREDIT APPROVED BY THE DEPARTMENT IN
6 A TAXABLE YEAR FIRST SHALL BE APPLIED AGAINST THE BUSINESS
7 FIRM'S QUALIFIED TAX LIABILITY FOR THE CURRENT TAXABLE YEAR AS
8 OF THE DATE ON WHICH THE TAX CREDIT WAS APPROVED BEFORE THE TAX
9 CREDIT CAN BE APPLIED AGAINST A TAX LIABILITY UNDER SUBSECTION
10 (A).

11 (C) NO CARRYBACK OR REFUND.--A BUSINESS FIRM IS NOT ENTITLED
12 TO CARRY BACK OR OBTAIN A REFUND OF ALL OR ANY PORTION OF AN
13 UNUSED TAX CREDIT GRANTED TO THE BUSINESS FIRM UNDER THIS
14 ARTICLE.
15 SECTION 1711-L. PASS-THROUGH ENTITY.

16 (A) GENERAL RULE.--IF A BUSINESS FIRM WHICH IS A PASS-
17 THROUGH ENTITY HAS ANY UNUSED TAX CREDITS UNDER SECTION 1710-L,
18 THE PASS-THROUGH ENTITY MAY ELECT IN WRITING, ACCORDING TO
19 PROCEDURES ESTABLISHED BY THE DEPARTMENT, TO TRANSFER ALL OR A
20 PORTION OF THE TAX CREDITS TO SHAREHOLDERS, MEMBERS OR PARTNERS
21 IN PROPORTION TO THE SHARE OF THE ENTITY'S DISTRIBUTIVE INCOME
22 TO WHICH EACH SHAREHOLDER, MEMBER OR PARTNER IS ENTITLED.

23 (B) LIMITATION.--A PASS-THROUGH ENTITY AND A SHAREHOLDER,
24 MEMBER OR PARTNER OF A PASS-THROUGH ENTITY MAY NOT CLAIM THE TAX
25 CREDIT UNDER SUBSECTION (A) FOR THE SAME CONTRIBUTION.

26 (C) APPLICATION.--A SHAREHOLDER, MEMBER OR PARTNER OF A
27 PASS-THROUGH ENTITY TO WHOM A TAX CREDIT IS TRANSFERRED UNDER
28 SUBSECTION (A) SHALL IMMEDIATELY CLAIM THE TAX CREDIT IN THE
29 TAXABLE YEAR IN WHICH THE TRANSFER IS MADE. THE SHAREHOLDER,
30 MEMBER OR PARTNER MAY NOT CARRY FORWARD, CARRY BACK, OBTAIN A

1 REFUND OF OR SELL OR ASSIGN THE TAX CREDIT.

2 (D) AN INDIVIDUAL SHAREHOLDER, MEMBER OR PARTNER MAY APPLY A
3 TAX CREDIT DISTRIBUTED UNDER THIS SECTION TO INCOME TAXABLE
4 UNDER ARTICLE III TO THE SHAREHOLDER, MEMBER OR PARTNER, TO THE
5 SPOUSE OF THE SHAREHOLDER, MEMBER OR PARTNER OR TO BOTH, IF BOTH
6 THE SHAREHOLDER, MEMBER OR PARTNER AND THE SPOUSE REPORT INCOME
7 ON A JOINT PERSONAL INCOME TAX RETURN.

8 SECTION 1712-L. SALE OR ASSIGNMENT.

9 (A) AUTHORIZATION.--UPON APPROVAL BY THE DEPARTMENT, A
10 BUSINESS FIRM MAY SELL OR ASSIGN, IN WHOLE OR IN PART, A TAX
11 CREDIT GRANTED TO THE BUSINESS FIRM UNDER THIS ARTICLE.

12 (B) APPLICATION.--THE FOLLOWING SHALL APPLY:

13 (1) TO SELL OR ASSIGN A TAX CREDIT, A BUSINESS FIRM MUST
14 FILE AN APPLICATION FOR THE SALE OR ASSIGNMENT OF THE TAX
15 CREDIT WITH THE DEPARTMENT. THE APPLICATION MUST BE ON A FORM
16 REQUIRED BY THE DEPARTMENT.

17 (2) THE DEPARTMENT SHALL APPROVE A SALE OR ASSIGNMENT IF
18 THE PURCHASER OR ASSIGNEE HAS:

19 (I) FILED ALL REQUIRED STATE TAX REPORTS AND RETURNS
20 FOR ALL APPLICABLE TAXABLE YEARS; AND

21 (II) PAID ANY BALANCE OF STATE TAX DUE AS DETERMINED
22 BY ASSESSMENT OR DETERMINATION BY THE DEPARTMENT AND NOT
23 UNDER TIMELY APPEAL.

24 SECTION 1713-L. PURCHASERS AND ASSIGNEES.

25 (A) CLAIM.--THE PURCHASER OR ASSIGNEE OF ALL OR A PORTION OF
26 A TAX CREDIT UNDER SECTION 1712-L SHALL IMMEDIATELY CLAIM THE
27 CREDIT IN THE TAXABLE YEAR IN WHICH THE PURCHASE OR ASSIGNMENT
28 IS MADE.

29 (B) AMOUNT.--THE AMOUNT OF THE TAX CREDIT THAT A PURCHASER
30 OR ASSIGNEE MAY USE AGAINST ANY ONE QUALIFIED TAX LIABILITY MAY

1 NOT EXCEED 75% OF THE QUALIFIED TAX LIABILITY FOR THE TAXABLE
2 YEAR.

3 (C) USE.--THE PURCHASER OR ASSIGNEE MAY NOT CARRY FORWARD,
4 CARRY BACK OR OBTAIN A REFUND OF OR SELL OR ASSIGN THE TAX
5 CREDIT.

6 SECTION 1714-L. ADMINISTRATION.

7 (A) AUDITS AND ASSESSMENTS.--THE DEPARTMENT HAS THE
8 FOLLOWING POWERS:

9 (1) TO AUDIT A BUSINESS FIRM CLAIMING A TAX CREDIT TO
10 ASCERTAIN THE VALIDITY OF THE AMOUNT CLAIMED.

11 (2) TO ISSUE AN ASSESSMENT AGAINST A BUSINESS FIRM FOR
12 AN IMPROPERLY ISSUED TAX CREDIT. THE PROCEDURES, COLLECTION,
13 ENFORCEMENT AND APPEALS OF ANY ASSESSMENT MADE UNDER THIS
14 SECTION SHALL BE GOVERNED BY ARTICLE IV.

15 (B) GUIDELINES.--THE DEPARTMENT SHALL DEVELOP WRITTEN
16 GUIDELINES FOR THE IMPLEMENTATION OF THIS ARTICLE.

17 SECTION 1715-L. ANNUAL REPORT TO GENERAL ASSEMBLY.

18 BY OCTOBER 1, 2021, AND OCTOBER 1 OF EACH YEAR THEREAFTER,
19 THE DEPARTMENT SHALL SUBMIT A REPORT ON THE TAX CREDIT PROVIDED
20 BY THIS ARTICLE TO THE CHAIRPERSON AND MINORITY CHAIRPERSON OF
21 THE APPROPRIATIONS COMMITTEE OF THE SENATE, THE CHAIRPERSON AND
22 MINORITY CHAIRPERSON OF THE FINANCE COMMITTEE OF THE SENATE, THE
23 CHAIRPERSON AND MINORITY CHAIRPERSON OF THE APPROPRIATIONS
24 COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE CHAIRPERSON
25 AND MINORITY CHAIRPERSON OF THE FINANCE COMMITTEE OF THE HOUSE
26 OF REPRESENTATIVES. THE REPORT MUST INCLUDE:

27 (1) THE NAMES OF THE BUSINESS FIRMS UTILIZING THE TAX
28 CREDIT AS OF THE DATE OF THE REPORT AND THE AMOUNT OF TAX
29 CREDITS APPROVED FOR, UTILIZED BY OR SOLD OR ASSIGNED BY A
30 BUSINESS FIRM DURING THE PRECEDING FISCAL YEAR; AND

1 (2) THE AMOUNT OF CONTRIBUTIONS RECEIVED BY EACH OF THE
2 FOUR PEDIATRIC CANCER RESEARCH INSTITUTES DURING THE
3 PRECEDING FISCAL YEAR.

4 Section ~~1710-H~~ 1716-L. Limitation. <--

5 A business firm may not apply for a tax credit after the 10th
6 fiscal year after the effective date of this article.

7 Section ~~1711-H~~ 1717-L. Applicability. <--

8 ~~This~~ THE TAX CREDIT ESTABLISHED UNDER THIS article shall <--
9 apply to taxable years beginning after December 31, 2019.

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