

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 478 Session of 2019

INTRODUCED BY VOGEL, J. WARD, STREET, GORDNER, SCHWANK, FOLMER, YAW, KILLION, LANGERHOLC, K. WARD, BROOKS, REGAN, BAKER, STEFANO, BLAKE AND AUMENT, MARCH 26, 2019

SENATOR HUTCHINSON, FINANCE, AS AMENDED, MAY 1, 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 beginning farmer tax credit.

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:

ARTICLE XVIII-H

TAX CREDITS RELATING TO BEGINNING FARMERS

18 Section 1801-H. Scope of article.

19 This article relates to the tax credits to owners of
20 agricultural assets and to beginning farmers.

21 Section 1802-H. 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 "Agricultural assets." Agricultural land, livestock,  
5 facilities, buildings and machinery used for farming.

6 "Beginning farmer." An individual who:

7 (1) Is a resident of this Commonwealth.

8 (2) Is seeking entry, or has entered within the last 10  
9 years, into farming.

10 (3) Intends to engage in farming on land situate in this  
11 Commonwealth.

12 ~~(4) Is not and whose spouse is not a family member of~~ <--  
13 ~~the owner of the agricultural assets from whom the individual~~  
14 ~~seeks to purchase or rent agricultural assets.~~

15 ~~(5) Is not and whose spouse is not a family member of a~~  
16 ~~partner, member, shareholder or trustee of the owner of~~  
17 ~~agricultural assets from whom the individual seeks to~~  
18 ~~purchase or rent agricultural assets.~~

19 ~~(6) (5) Meets the following eligibility requirements as~~ <--  
20 ~~determined by the department:~~

21 ~~(i) Has a net worth that does not exceed \$800,000,~~  
22 ~~subject to annual adjustment by the department in an~~  
23 ~~amount equal to the percentage change EQUIVALENT TO ANY~~ <--  
24 ~~PERCENTAGE INCREASE in the Consumer Price Index for All~~  
25 ~~Urban Consumers for the Pennsylvania, New Jersey,~~  
26 ~~Delaware and Maryland area, for the most recent 12-month~~  
27 ~~period for which figures have been officially reported by~~  
28 ~~the United States Department of Labor, Bureau of Labor~~  
29 ~~Statistics, immediately prior to the date the adjustment~~  
30 ~~is due to take effect.~~

1           (ii) Provides the majority of the daily physical  
2 labor or management of a farm.

3           (iii) Has, by the judgment of the department,  
4 adequate farming experience or demonstrates knowledge in  
5 the type of farming for which the beginning farmer seeks  
6 assistance from the department.

7           (iv) Demonstrates to the department a profit  
8 potential by submitting projected earnings statements.

9           (v) Asserts to the satisfaction of the department  
10 that farming will be a significant source of income for  
11 the beginning farmer.

12           (vi) Agrees to notify the department if the  
13 beginning farmer no longer meets the eligibility  
14 requirements within the three-year certification period,  
15 in which case the beginning farmer is no longer eligible  
16 for tax credits.

17           (vii) Is not engaged in farming by means of a joint  
18 business venture.

19           (viii) Has other qualifications as specified by the  
20 department.

21 THE TERM DOES NOT INCLUDE THE SPOUSE OR A BUSINESS PARTNER OF   <--  
22 THE INDIVIDUAL.

23       "Department." The Department of Community and Economic  
24 Development of the Commonwealth.

25       "Family member." A family member within the meaning of  
26 section 267(c)(4) of the Internal Revenue Code of 1986 (Public  
27 Law 99-514, 26 U.S.C. § 267(c)(4)). The term does not include  
28 the spouse of a beginning farmer.

29       "Farm." Real property on which farming occurs.

30       "Farm product." Plants and animals useful to humans and

1 includes forage and sod crops, oilseeds, grain and feed crops,  
2 dairy and dairy products, poultry and poultry products,  
3 livestock, fruits and vegetables.

4 "Farming." The active use, management and operation of real  
5 and personal property for the production of a farm product.

6 "Lease." A written agreement between parties for the lease  
7 of real property on which farming occurs.

8 "Owner of agricultural assets." An individual, trust or  
9 pass-through entity that is the owner in fee of agricultural  
10 land or has legal title to any other agricultural asset. The  
11 term does not include an equipment dealer, livestock dealer or  
12 comparable entity that is engaged in the business of selling  
13 agricultural assets for profit and that is not engaged in  
14 farming as its primary business activity.

15 "Tax credit." A tax credit established by this article.  
16 Section 1803-H. ~~Tax~~ BEGINNING FARMER MANAGEMENT TAX credit for <--  
17 ~~owners of agricultural assets.~~

18 (a) General rule.--An owner of agricultural assets may take  
19 a credit against the tax due under Article III for the sale or  
20 rental of agricultural assets to a beginning farmer in the  
21 amount allocated APPROVED by the department under section 1804 <--

22 H. An owner of agricultural assets is eligible for allocation of  
23 a tax credit equal to:

24 (1) five percent of the lesser of the sale price or the  
25 fair market value of the agricultural asset, up to a maximum  
26 of \$32,000; or

27 (2) ten percent of the gross rental income in each of  
28 the first, second and third years of a rental agreement, up  
29 to a maximum of \$7,000 per year.

30 (b) Application.--The tax credit may be claimed only after

1 approval and certification by the department and is limited to  
2 the amount stated on the certificate issued under section 1804-  
3 H. An owner of agricultural assets must apply to the department  
4 for ~~certification and allocation~~ APPROVAL of a tax credit, in a <--  
5 form and manner prescribed by the department.

6 (c) Termination of rental agreement.--

7 (1) An owner of agricultural assets or beginning farmer  
8 may terminate a rental agreement for reasonable cause upon  
9 approval of the department.

10 (2) If a rental agreement is terminated without the  
11 fault of the owner of agricultural assets, the tax credits  
12 shall not be retroactively disallowed.

13 (3) In determining reasonable cause, the department  
14 shall consider which party was at fault in the termination of  
15 the agreement.

16 (4) If the department determines the owner of  
17 agricultural assets did not have reasonable cause, the owner  
18 of agricultural assets must repay all tax credits received as  
19 a result of the rental agreement to the Secretary of Revenue.  
20 The repayment is additional income tax for the taxable year  
21 in which the department makes its decision or when a final  
22 adjudication under section 1805-H is made, whichever is  
23 later.

24 (d) Duration of tax credit.--The credit is limited to the  
25 liability for tax as computed under Article III for the taxable  
26 year. The tax credit may not be carried over or assigned.

27 Section 1804-H. ~~Beginning farmer management~~ APPROVAL OF tax <--  
28 credit.

29 (a) ~~Departmental approval~~ GENERAL RULE.--The tax credit may <--  
30 be claimed only after approval and certification by the

1 department. THE DEPARTMENT SHALL REVIEW THE APPLICATION OF A TAX <--  
2 CREDIT IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE.

3 (b) ~~Duration of tax credit. The tax credit is limited to~~ <--  
4 ~~the liability for tax as computed under Article III for the~~  
5 ~~taxable year. If the amount of the tax credit determined under~~  
6 ~~this section for any taxable year exceeds this limitation, the~~  
7 ~~excess may be carried forward.~~ TAX CLEARANCE.--BEFORE AN <--  
8 APPLICATION IS APPROVED, THE DEPARTMENT OF REVENUE MUST FIND  
9 THAT THE APPLICANT HAS FILED ALL REQUIRED STATE TAX REPORTS AND  
10 RETURNS FOR ALL APPLICABLE TAXABLE YEARS AND PAID ANY BALANCE OF  
11 STATE TAX DUE AS DETERMINED AT SETTLEMENT OR ASSESSMENT OR AS  
12 OTHERWISE DETERMINED BY THE DEPARTMENT OF REVENUE.

13 Section 1805-H. Departmental duties.

14 (a) Duties.--The department shall:

15 (1) Share information with the Secretary of Revenue to  
16 the extent necessary to administer provisions under this  
17 article and Article III.

18 (2) Annually notify the Secretary of Revenue of approval  
19 and certification or recertification of beginning farmers and  
20 owners of agricultural assets under this section. For tax  
21 credits under section 1803-H, the notification must include  
22 the amount of tax credit approved by the department and  
23 stated on the tax credit certificate.

24 (b) Validity of certification.--The certification of a  
25 beginning farmer or an owner of agricultural assets under this  
26 section is valid for the year of the certification and the two  
27 following years, after which time the beginning farmer or owner  
28 of agricultural assets must apply to the department for  
29 recertification.

30 (c) Limitation on amount.--

1       (1) For tax credits for owners of agricultural assets  
2 allowed under section 1803-H, the department may allocate NO <--  
3 more than \$5,000,000 for the taxable year beginning after  
4 December 31, 2019, and may not allocate NO more than <--  
5 \$6,000,000 for the taxable years beginning after December 31,  
6 2020.

7       (2) The department shall allocate tax credits on a  
8 first-come, first-served basis beginning on January 1 of each  
9 year, except that recertifications for the second and third  
10 years of tax credits under section 1803-H(a) (1) and (2) have  
11 first priority. Any amount authorized but not allocated in  
12 any taxable year does not cancel and is added to the  
13 allocation for the next taxable year.

14 Section 1806-H. Report.

15       (a) Duty to report.--No later than February 1, 2025, the  
16 department, in consultation with the Secretary of Revenue, shall  
17 provide a report to the General Assembly on the tax credits  
18 issued in tax years beginning after December 31, 2019.

19       (b) Contents of report.--

20       (1) The report must include background information on  
21 beginning farmers and any other information the department  
22 finds relevant to evaluating the effect of the tax credits on  
23 increasing opportunities for and the number of beginning  
24 farmers.

25       (2) For tax credits issued under section ~~1803-H(a)(1),~~ <--  
26 ~~(2) and (3)~~ 1803-H(A), the report shall include: <--

27           (i) The number and amount of tax credits issued  
28 under each paragraph.

29           (ii) The geographic distribution of tax credits  
30 issued under each paragraph.

1           (iii) The type of agricultural assets for which tax  
2           credits were issued under section 1803-H(a)(1).

3           (iv) The number and geographic distribution of  
4           beginning farmers whose purchase or rental of assets  
5           resulted in tax credits for the seller or owner of the  
6           asset.

7           (v) The number and amount of tax credits disallowed  
8           under section 1803-H(d).

9           (vi) Data on the number of beginning farmers by  
10           geographic region in the tax years covered in the report.

11           (vii) The number and amount of tax credit  
12           applications that exceeded the allocation available in  
13           each year.

14           (3) For tax credits issued under section 1804-H, the  
15           report shall include:

16           (i) The number and amount of tax credits issued.

17           (ii) The geographic distribution of tax credits.

18           (iii) A description of the approval procedure for  
19           financial management programs not on the list maintained  
20           by the department as provided in section 1804-H(a).

21 Section 1807-H. Expiration.

22           This article shall expire for taxable years beginning after  
23           December 31, 2029.

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