

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 243 Session of 2021

INTRODUCED BY WARREN AND T. DAVIS, JANUARY 25, 2021

REFERRED TO COMMITTEE ON FINANCE, JANUARY 25, 2021

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 commuter and commerce toll 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-M

18 COMMUTER AND COMMERCE TOLL TAX CREDIT

19 Section 1701-M. Scope of article.

20 This article relates to the commuter and commerce toll tax
21 credits.

22 Section 1702-M. Definitions.

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

5 (1) A partnership, limited partnership, limited
6 liability company, business trust or other unincorporated
7 entity that for Federal income tax purposes is taxable as a
8 partnership.

9 (2) A Pennsylvania S corporation.

10 "Qualified tax liability." For a taxpayer who is an
11 individual, taxes imposed under Article III and for all other
12 taxpayers, taxes imposed under Articles III, IV and VI. The term
13 shall include the liability for taxes imposed under Article III
14 on a shareholder of a pass-through entity.

15 "Qualified toll expense." Any remuneration paid through the
16 use of an E-Z Pass transponder or paid with cash or a credit or
17 debit card for access and use of the Pennsylvania Turnpike and
18 all toll bridges operated under the Delaware River Joint Toll
19 Bridge Commission, the Delaware River Port Authority of
20 Pennsylvania and New Jersey and the Burlington County Bridge
21 Commission.

22 "Tax credit." The Commuter and Commerce Toll Tax Credit
23 authorized under this article.

24 "Taxpayer." A Pennsylvania-based entity or individual
25 Pennsylvania resident subject to tax under Article III, IV or
26 VI. The term shall include the shareholder, owner or member of a
27 pass-through entity that receives a tax credit.

28 Section 1703-M. Credit for qualified toll expense.

29 (a) Application.--

30 (1) A taxpayer that incurs a qualified toll expense in a

1 taxable year may apply for a tax credit as provided under
2 this article. By September 15 of each year, a taxpayer must
3 submit an application to the department for a qualified toll
4 expense incurred in the taxable year that ended in the prior
5 calendar year.

6 (2) The taxpayer must include with the application a
7 receipt for each qualified toll expense that was paid with
8 cash or a credit or debit card. Receipts shall not be
9 transferrable from one taxpayer to another for the purpose of
10 submitting an application for a tax credit.

11 (b) Receipt.--A taxpayer that is qualified under subsection
12 (a) shall receive a tax credit for the taxable year in the
13 amount of 50%, not to exceed \$500, of the taxpayer's total
14 qualified toll expense for the taxable year.

15 (c) Notification.--By December 15 of the calendar year
16 following the close of the taxable year during which the
17 qualified toll expense was incurred, the department shall notify
18 the taxpayer of the amount of the taxpayer's tax credit approved
19 by the department.

20 Section 1704-M. Carryover, carryback, refund and assignment of
21 credit.

22 (a) Carryover.--If the taxpayer cannot use the entire amount
23 of the tax credit for the taxable year in which the tax credit
24 is first approved, the excess may be carried over succeeding
25 taxable years and used as a credit against the qualified tax
26 liability of the taxpayer for those taxable years. Each time
27 that the tax credit is carried over to a succeeding taxable
28 year, it is to be reduced by the amount that was used as a
29 credit during the immediately preceding taxable year. The tax
30 credit provided by this article may be carried over and applied

1 to succeeding taxable years for no more than 15 taxable years
2 following the first taxable year for which the taxpayer was
3 entitled to claim the credit.

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

10 (c) Carryback or refund.--A taxpayer shall not be entitled
11 to carry back or obtain a refund of an unused tax credit.

12 Section 1705-M. Limitation on credits.

13 (a) Total amount.--The total amount of tax credits approved
14 by the department may not be limited in any fiscal year.

15 (b) Allocation.--Tax credits to each taxpayer under this
16 article may not exceed \$500 annually.

17 Section 1706-M. Shareholder, owner or member pass-through.

18 (a) Application to Pennsylvania S corporations.--If a
19 Pennsylvania S corporation does not have an eligible tax
20 liability against which the tax credit may be applied, a
21 shareholder of the Pennsylvania S corporation shall be entitled
22 to a tax credit equal to the tax credit determined for the
23 Pennsylvania S corporation for the taxable year multiplied by
24 the percentage of the Pennsylvania S corporation's distributive
25 income to which the shareholder is entitled.

26 (b) Other applications.--If a pass-through entity other than
27 a Pennsylvania S corporation does not have an eligible tax
28 liability against which the tax credit may be applied, an owner
29 or member of the pass-through entity shall be entitled to a tax
30 credit equal to the tax credit determined for the pass-through

1 entity for the taxable year multiplied by the percentage of the
2 pass-through entity's distributive income to which the owner or
3 member is entitled.

4 (c) Additional credit.--The credit provided under subsection
5 (a) or (b) shall be in addition to any tax credit to which a
6 shareholder, owner or member of a pass-through entity is
7 otherwise entitled under this article, except that a pass-
8 through entity and a shareholder, owner or member of a pass-
9 through entity may not claim a credit under this article for the
10 same qualified toll expense.

11 Section 1707-M. Regulations.

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

14 Section 2. The addition of Article XVII-M of the act shall
15 apply to taxable years beginning after December 31, 2021.

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