
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 562 Session of
2021

INTRODUCED BY SCAVELLO, LANGERHOLC, BROWNE, ARGALL, STEFANO,
J. WARD, BOSCOLA, BARTOLOTTA, MENSCH, SCHWANK AND PITTMAN,
APRIL 14, 2021

REFERRED TO FINANCE, APRIL 14, 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 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-H

17 AIRPORT LAND DEVELOPMENT ZONES

18 Section 1901-H. 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 by an airport or
15 leased as provided under paragraph (2), that as of December
16 31, 2020, had no permanent vertical structures affixed or the
17 buildings are vacant with no business located in the
18 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 of the parcel for the life of the
22 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, VII, VIII or
25 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, 2020.

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 an 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 employees
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-H.

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

27 "Zone." An airport land development zone.

28 Section 1902-H. Airport Land Development Zone Program.

29 The Airport Land Development Zone Program is established to
30 encourage and promote the creation of new jobs on land and

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

5 Section 1903-H. 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. If the proposed plan conforms with
19 this article, the department shall approve the plan. If the
20 proposed plan does not conform or is not appropriate, the
21 department shall notify, in writing, the airport and the airport
22 shall have 60 days to revise the plan to make the plan conform
23 with this article.

24 (d) Notification.--If an airport land development zone plan
25 submitted by an airport under subsection (b) is approved, the
26 department shall notify the Department of Revenue of parcels
27 included in the zone within 60 days of approval.

28 (e) Change.--An airport may change the airport land
29 development plan by subdividing a parcel, changing the legal
30 description of a parcel, moving the zone designation to another

1 qualifying parcel or making physical changes to a vacant
2 building in the zone by adding to the building's size or
3 reducing the building's size after the plan has been approved.
4 If an airport chooses to make the changes, the airport shall
5 notify the department and the Department of Revenue of the
6 change. The department shall issue a document confirming the
7 parcel changes and provide a new list of parcels.

8 Section 1904-H. Airport land development zone tax credit.

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

12 (b) Process.--

13 (1) An airport land development zone employer shall
14 notify the department of the airport land development zone
15 employer's qualification for a tax credit under this section
16 by February 1 for tax credits earned during a taxable year
17 ending in the prior calendar year.

18 (2) The notification under paragraph (1) shall contain
19 the following:

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

22 (ii) Verification that the airport land development
23 zone employer is an airport land development zone
24 employer located in an airport land development zone.
25 Verification under this subparagraph can be in the form
26 of an executed lease or a business license from the host
27 municipality.

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

30 (iv) Verification that each employee identified in

1 subparagraph (iii) spent at least 90% of the employee's
2 working time for the airport land development zone
3 employer at the employer's airport land development zone
4 location.

5 (v) Any other information required by the
6 department.

7 (3) To qualify for the credit, the Department of Revenue
8 must certify that the airport land development zone employer
9 is current with all tax liabilities.

10 (4) By March 1 of each year, the department shall send
11 the airport land development zone employer who submitted the
12 notification a certificate of the airport land development
13 zone employer's qualification for the credit. The airport
14 land development zone employer shall present the certificate
15 to the Department of Revenue when filing the airport land
16 development zone employer's return claiming the credit.

17 (c) Amount.--The amount of the tax credit an airport land
18 development zone employer may earn in any tax year shall be
19 equal to \$2,100 for each full-time equivalent employee in excess
20 of the number of full-time equivalent employees employed by the
21 airport land development zone employer prior to January 1, 2021.

22 (d) Application of tax credits.--An airport land development
23 zone employer must first use the airport land development zone
24 employer's airport land development zone tax credit against the
25 airport land development zone employer's qualified tax
26 liability.

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

28 (1) If the airport land development zone employer is
29 entitled to a credit in any year that exceeds the airport
30 land development zone employer's qualified tax liability for

1 that year, upon application to and approval by the
2 department, an airport land development zone employer that
3 has been awarded a tax credit may sell or assign, in whole or
4 in part, the tax credit granted to the airport land
5 development zone employer. The application must be on the
6 form required by the department and must include or
7 demonstrate all of the following:

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

9 (ii) A copy of the tax credit certificate previously
10 issued by the department.

11 (iii) A statement as to whether any part of the tax
12 credit has been applied to tax liability of the applicant
13 and the amount so applied.

14 (iv) Any other information required by the
15 department.

16 (2) The department shall review the application and, if
17 all requirements have been met, approve the application and
18 notify the Department of Revenue.

19 (3) The purchaser or assignee of all or a portion of an
20 airport land development zone tax credit under this section
21 shall claim the credit in the taxable year in which the
22 purchase or assignment is made. The purchaser or assignee of
23 a tax credit may use the tax credit against any tax liability
24 of the purchaser or assignee under Article III, IV, VII, VIII
25 or XV. The amount of the tax credit used may not exceed 75%
26 of the purchaser's or assignee's tax liability for the
27 taxable year. The purchaser or assignee may not carry over,
28 carry back, obtain a refund of or assign the airport land
29 development zone credit. The purchaser or assignee shall
30 notify the department and the Department of Revenue of the

1 seller or assignor of the airport land development zone tax
2 credit in compliance with procedures specified by the
3 department.

4 (e) Use and carryforward.--

5 (1) An airport land development zone employer may earn
6 the tax credit allowed under this article in any tax year
7 beginning in 2021 and for a period of up to 10 tax years
8 during the 20-year period beginning July 1, 2021, and ending
9 June 30, 2040.

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

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

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

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

19 (f) Dual-use prohibited.--Each year, an airport land
20 development zone employer may only earn tax credits under
21 subsection (c) or (d) or under the act of October 6, 1998
22 (P.L.705, No.92), known as the Keystone Opportunity Zone,
23 Keystone Opportunity Expansion Zone and Keystone Opportunity
24 Improvement Zone Act. An airport land development zone employer
25 may not claim a credit under both this section and Article
26 XVIII-B.

27 (g) Pass-through entities.--

28 (1) If an airport land development zone employer is a
29 pass-through entity and has an unused tax credit under
30 subsection (c), (d) or (e), the airport land development zone

1 employer may elect in writing, according to procedures
2 established by the Department of Revenue, to transfer all or
3 a portion of the credit to shareholders, members or partners
4 in proportion to the share of the entity's distributive
5 income to which the shareholder, member or partner is
6 entitled.

7 (2) An airport land development zone employer that is a
8 pass-through entity and a shareholder, member or partner of
9 that airport land development zone employer may not both
10 claim the airport land development zone tax credit earned by
11 the airport land development zone employer for any tax year.

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

17 (h) Transfer.--A tax credit or tax credit carryforward that
18 an airport land development zone employer is entitled to use may
19 be transferred to a successor entity of the airport land
20 development zone employer.

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

22 (1) A company which receives airport land development
23 zone tax credits and fails to substantially maintain the
24 operations related to the airport land development zone tax
25 credits in this Commonwealth for a period of five years from
26 the date the company first submits an airport land
27 development zone tax credit certificate to the Department of
28 Revenue shall be required to refund to the Commonwealth the
29 total amount of credits granted.

30 (2) The department may waive the penalty under paragraph

1 (1) if it is determined that a company's operations were not
2 maintained or the new jobs were not created because of
3 circumstances beyond the company's control. Circumstances
4 shall include natural disasters, unforeseen industry trends
5 or a loss of a major supplier or market.

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