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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 723 Session of  
2021

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INTRODUCED BY MENSCH, AUMENT, BARTOLOTTA, MARTIN, MASTRIANO,  
PHILLIPS-HILL, STEFANO AND J. WARD, MAY 28, 2021

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REFERRED TO FINANCE, MAY 28, 2021

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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," establishing a career development 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:

16 ARTICLE XVII-G.2

17 CAREER DEVELOPMENT TAX CREDIT

18 Section 1701-G.2. Short title of article.

19 This article shall be known and may be cited as the Career  
20 Development Tax Credit Act.

21 Section 1702-G.2. 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 "Career development tax credit" or "tax credit." The credit  
4 provided under this article.

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

6 "Nonqualified individual."

7 (1) An individual who is one of the following:

8 (i) an officer of a business entity;

9 (ii) a member or shareholder owning more than 5% of  
10 the voting power or value of all classes of stock of a  
11 business entity; or

12 (iii) an individual who, for the preceding taxable  
13 year:

14 (A) received compensation from an employer in  
15 excess of the Federal limitation, after adjustment by  
16 the Secretary of the United States Treasury for  
17 inflation, set forth in section 414(q)(1)(B) of the  
18 Internal Revenue Code of 1986 (Public Law 99-514, 26  
19 U.S.C. § 414(q)(1)(B)); or

20 (B) is in the group consisting of the top 20% of  
21 all full-time employees of the employer with at least  
22 three years of service when ranked on the basis of  
23 compensation paid during the taxable year.

24 (2) A partner or self-employed individual.

25 (3) A physician.

26 (4) A veterinarian.

27 (5) An attorney.

28 (6) An executive.

29 "Nonqualified training expense." All of the following:

30 (1) Expenditures either reimbursed or subject to

1 reimbursement through any Federal or State training program.

2 (2) Federal, State or local grants or other payments to  
3 provide training or retraining.

4 (3) Capital expenses.

5 (4) Equipment, materials and software used beyond the  
6 training program.

7 (5) Expenses for out-of-State travel.

8 (6) Convention or conference expenses, unless directly  
9 related to a qualified career development training program.

10 "Qualified career development training program." A training  
11 program that is certified by the Department of Labor and  
12 Industry as meeting recognized industry standards, designed to  
13 meet the special requirements of an employer, and conducted with  
14 a commitment by the employer to continue to employ an individual  
15 on successful completion of the training. The term does not  
16 include the following:

17 (1) Any program in which 50% or more of the employee's  
18 time is spent on activities other than those directly related  
19 to the training program.

20 (2) An executive training program.

21 (3) A personal enrichment program.

22 (4) A general health program.

23 (5) A seminar or conference unless directly related to  
24 the employee's job requirements.

25 "Qualified employee." A Commonwealth resident who is  
26 employed in this Commonwealth by a taxpayer and who averages at  
27 least 30 hours of work per week at the time training commences  
28 and for a period of 12 months following the employee's  
29 completion of the qualified career development program. The term  
30 excludes an individual who is a nonqualified individual.

1 "Qualified tax liability." The liability for taxes imposed  
2 under Article III, IV or VI. The term includes the liability for  
3 taxes imposed under Article III on a shareholder of a  
4 Pennsylvania S corporation.

5 "Qualified training expense." Wages paid to a qualified  
6 employee during normal working hours while participating in a  
7 qualified career development training program. The term includes  
8 preskill and postskill assessment, direct costs of instructors,  
9 instructional materials, instructional supplies, instructional  
10 media, necessary training equipment, tuition reimbursement,  
11 travel costs to and from class and other instructional  
12 activities. The term excludes nonqualified training expense.

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

14 "Taxpayer." An entity that is engaged in the business of  
15 manufacturing and subject to tax under Article III, IV or VI.  
16 The term includes the shareholder of a Pennsylvania S  
17 corporation that receives a career development tax credit or the  
18 member of a limited liability company that receives a career  
19 development tax credit.

20 Section 1703-G.2. Tax credit for qualified training expenses.

21 (a) General rule.--A taxpayer who incurs qualified training  
22 expenses in a taxable year may apply for a career development  
23 tax credit as provided in this article. By September 15, a  
24 taxpayer must submit an application to the department for a  
25 qualified training expense incurred in the taxable year that  
26 ended in the prior calendar year.

27 (b) Amount of tax credit.--A taxpayer that is qualified  
28 under subsection (a) shall receive a career development tax  
29 credit for the taxable year in the amount of 25% of the  
30 taxpayer's total qualified training expense for the taxable

1 year.

2 (c) Notification of approved tax credit.--By December 15 of  
3 the calendar year following the close of the taxable year during  
4 which the qualified training expense was incurred, the  
5 department shall notify the taxpayer of the amount of the  
6 taxpayer's career development tax credit approved by the  
7 department.

8 Section 1704-G.2. Carryover, carryback, refund and assignment  
9 of tax credit.

10 (a) General rule.--If the taxpayer cannot use the entire  
11 amount of the career development tax credit for the taxable year  
12 in which the career development tax credit is first approved,  
13 then the excess may be carried over to succeeding taxable years  
14 and used as a credit against the qualified tax liability of the  
15 taxpayer for those taxable years. Each time that the career  
16 development tax credit is carried over to a succeeding taxable  
17 year, it is to be reduced by the amount that was used as a  
18 credit during the immediately preceding taxable year. The career  
19 development tax credit provided by this article may be carried  
20 over and applied to succeeding taxable years for no more than 15  
21 taxable years following the first taxable year for which the  
22 taxpayer was entitled to claim the credit.

23 (b) Taxable year in which tax credit applied.--A career  
24 development tax credit approved by the department for qualified  
25 training expenses in a taxable year first shall be applied  
26 against the taxpayer's qualified tax liability for the current  
27 taxable year as of the date on which the credit was approved  
28 before the career development tax credit is applied against any  
29 tax liability under subsection (a).

30 (c) Limitation.--A taxpayer is not entitled to carry back or

1 obtain a refund of an unused career development tax credit.

2 Section 1705-G.2. Time limitations.

3 A taxpayer is not entitled to a career development tax credit  
4 for qualified training expenses incurred in taxable years ending  
5 after December 31, 2021.

6 Section 1706-G.2. Limitation on tax credits.

7 (a) General rule.--The total amount of career development  
8 tax credits approved by the department shall not exceed  
9 \$20,000,000 in any fiscal year.

10 (b) Proration required.--If the total amount of career  
11 development tax credits applied for by all taxpayers exceeds the  
12 amount allocated for those credits, then the career development  
13 tax credit to be received by each applicant shall be prorated by  
14 the department among all applicants who have qualified for the  
15 tax credit.

16 Section 1707-G.2. Pennsylvania S corporation shareholder pass-  
17 through.

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

26 (b) Operation of tax credit.--The career development tax  
27 credit provided under subsection (a) is in addition to any  
28 career development tax credit to which a shareholder of a  
29 Pennsylvania S corporation is otherwise entitled under this  
30 article. However, a Pennsylvania S corporation and a shareholder

1 of a Pennsylvania S corporation may not claim a tax credit for  
2 the same qualified training expense.

3 Section 1708-G.2. Pennsylvania limited liability company member  
4 pass-through.

5 (a) General rule.--If a limited liability company does not  
6 have an eligible tax liability against which the career  
7 development tax credit may be applied, a member of the limited  
8 liability company is entitled to a tax credit equal to the tax  
9 credit determined for the limited liability company for the  
10 taxable year multiplied by the percentage of the limited  
11 liability company's distributive income to which the member is  
12 entitled.

13 (b) Operation of tax credit.--The career development tax  
14 credit under subsection (a) is in addition to any career  
15 development tax credit to which a member of a limited liability  
16 company is otherwise entitled under this article. A limited  
17 liability company and a member of a limited liability company  
18 may not claim a tax credit for the same qualified training  
19 expense.

20 Section 1709-G.2. Recapture of credit.

21 (a) General rule.--If an employee for whom a credit has been  
22 awarded does not maintain continuous employment with the  
23 taxpayer for a period of 12 months following the completion of  
24 the qualified career development training program, the  
25 department shall recapture any credit awarded to the taxpayer  
26 for the qualified training expense of that employee.

27 (b) Nonapplicability.--This section shall not apply if the  
28 employee:

29 (1) is deceased;

30 (2) is disabled;

1           (3) voluntarily leaves employment; or  
2           (4) is discharged for cause as certified by the  
3           Department of Labor and Industry.

4 Section 1710-G.2. Report to General Assembly.

5           The secretary shall submit an annual report to the General  
6 Assembly indicating the effectiveness of the career development  
7 tax credit no later than March 15 following the year in which  
8 the tax credits were approved. The report shall include the  
9 names of all taxpayers utilizing the tax credit as of the date  
10 of the report and the amount of tax credits approved and  
11 utilized by each taxpayer. Notwithstanding any law providing for  
12 the confidentiality of tax records, the information contained in  
13 the report shall be public information. The report may also  
14 include any recommendations for changes in the calculation or  
15 administration of the tax credit.

16 Section 1711-G.2. Termination.

17           The department shall not approve a career development tax  
18 credit for taxable years ending after December 31, 2021.

19 Section 1712-G.2. Regulations.

20           The secretary shall promulgate regulations necessary for the  
21 implementation and administration of this article.

22           Section 2. This act shall apply to taxable years commencing  
23 after December 31, 2020.

24           Section 3. This act shall take effect immediately.