

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1958 Session of 2024

INTRODUCED BY HANBIDGE, CEPHAS, SAMUELSON, RABB, SCHLOSSBERG, MERSKI, MADSEN, KHAN, PARKER, DONAHUE, T. DAVIS, DELLOSO, GUENST, SANCHEZ, HOWARD, FREEMAN, HILL-EVANS, CERRATO, CONKLIN, CIRESI, FLEMING, DALEY, SHUSTERMAN, BOYD, OTTEN AND FIEDLER, FEBRUARY 20, 2024

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 20, 2024

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 employer child care contribution~~  
11 ~~tax deduction.~~

12 AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN <--  
13 ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING  
14 AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING  
15 TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT,  
16 COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING  
17 FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND  
18 IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN  
19 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS  
20 AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND  
21 PENALTIES," PROVIDING FOR EMPLOYER CHILD CARE CONTRIBUTION  
22 TAX CREDIT.

23 The General Assembly of the Commonwealth of Pennsylvania  
24 hereby enacts as follows:

25 ~~Section 1. The act of March 4, 1971 (P.L.6, No.2), known as~~ <--  
26 ~~the Tax Reform Code of 1971, is amended by adding an article to~~

1 read:

2 ARTICLE XIX-J

3 EMPLOYER CHILD CARE CONTRIBUTION TAX DEDUCTION

4 Section 1901 J. Scope of article.

5 This article establishes the Employer Child Care Contribution  
6 Tax Deduction.

7 Section 1902 J. Definitions.

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

11 "Aggregate contribution." The aggregate contribution that a  
12 qualified taxpayer makes to all employees during a taxable year.

13 "Child care provider." Includes:

14 (1) A child care center as defined under 55 Pa. Code §  
15 3270.4 (relating to definitions).

16 (2) A group child care home as defined under 55 Pa. Code  
17 § 3280.4 (relating to definitions).

18 (3) A family child care home as defined under 55 Pa.  
19 Code § 3290.4 (relating to definitions).

20 "Contribution." A payment made to a child care provider by  
21 an employer to subsidize an employee's eligible child care  
22 costs.

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

24 "Eligible child care costs." Costs incurred by an employee  
25 for services rendered by a child care provider that are incurred  
26 to enable the employee to be gainfully employed by a qualified  
27 taxpayer.

28 "Employee." An individual employed by a qualified taxpayer  
29 whose job is located within this Commonwealth. The term shall  
30 not include:

1 ~~(1) A shareholder, partner or member of an entity~~  
2 ~~subject to tax under Article III.~~

3 ~~(2) An individual operating as a sole proprietor.~~

4 ~~(3) An officer of an entity subject to tax under Article~~  
5 ~~IV, VI, VII, VIII or XV.~~

6 ~~"Qualified taxpayer." A business, partnership, association,~~  
7 ~~corporation, governmental body or unit or agency or other entity~~  
8 ~~that:~~

9 ~~(1) is subject to a tax imposed under Article III, IV,~~  
10 ~~VI, VII, VIII, IX, XI or XV; and~~

11 ~~(2) is required under the Internal Revenue Code of 1986~~  
12 ~~(26 U.S.C. § 1 et seq.) to withhold Federal income tax from~~  
13 ~~wages paid to an employee.~~

14 ~~"Taxable income." A qualified taxpayer's taxable income~~  
15 ~~under Article III, IV, VI, VII, VIII, IX, XI or XV.~~

16 ~~Section 1903 J. Employer child care contribution tax deduction.~~

17 ~~(a) General rule. Notwithstanding any other provision of~~  
18 ~~law, a qualified taxpayer shall be allowed a deduction from the~~  
19 ~~qualified taxpayer's taxable income equal to 110% of the~~  
20 ~~qualified taxpayer's aggregate contribution. This deduction~~  
21 ~~shall be in addition to any tax credit or deduction to which a~~  
22 ~~qualified taxpayer or an employee is entitled under this act.~~

23 ~~(b) Limitation. The deduction shall not result in the~~  
24 ~~qualified taxpayer's taxable income being less than zero.~~

25 ~~(c) Form. The department shall establish and make available~~  
26 ~~a form which a qualified taxpayer seeking to claim the employer~~  
27 ~~child care contribution tax deduction must complete and file~~  
28 ~~along with the qualified taxpayer's tax return. The form shall~~  
29 ~~require the qualified taxpayer to provide the following:~~

30 ~~(1) The names, addresses and Social Security numbers of~~

~~all employees to which the qualified taxpayer made a contribution during the taxable year.~~

~~(2) The names, addresses and employer identification numbers of the child care providers that provided child care services to each participating employee.~~

~~(3) The amount contributed to each participating employee.~~

~~Section 1904 J. Exclusion from classes of income.~~

~~Notwithstanding any other provision of law, up to \$5,000 of the amount paid or incurred by a qualified taxpayer for an employee's eligible child care costs during the taxable year may not be included in any of the classes of income enumerated under section 303.~~

~~Section 1905 J. Regulations.~~

~~(a) Promulgation. The department shall promulgate regulations to implement the provisions of this article.~~

~~(b) Guidelines. The department shall develop written guidelines for the implementation of this article. The guidelines shall be in effect until the department promulgates regulations for the implementation of the provisions of this article.~~

~~Section 1906 J. Applicability.~~

~~The provisions of this article shall apply to taxable years beginning after December 31, 2023.~~

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

SECTION 1. THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS <--  
THE TAX REFORM CODE OF 1971, IS AMENDED BY ADDING AN ARTICLE TO  
READ:

ARTICLE XIX-J

EMPLOYER CHILD CARE CONTRIBUTION TAX CREDIT

1 SECTION 1901-J. SCOPE OF ARTICLE.

2 THIS ARTICLE ESTABLISHES THE EMPLOYER CHILD CARE CONTRIBUTION  
3 TAX CREDIT.

4 SECTION 1902-J. DEFINITIONS.

5 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE  
6 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
7 CONTEXT CLEARLY INDICATES OTHERWISE:

8 "AGGREGATE CONTRIBUTION." THE AGGREGATE CONTRIBUTION THAT A  
9 QUALIFIED TAXPAYER MAKES TO ALL EMPLOYEES DURING THE TAXABLE  
10 YEAR FOR WHICH THE QUALIFIED TAXPAYER SEEKS THE EMPLOYER CHILD  
11 CARE CONTRIBUTION TAX CREDIT ESTABLISHED UNDER THIS ARTICLE,  
12 PROVIDED THAT ONLY THE FIRST \$500 IN CONTRIBUTIONS PER EMPLOYEE  
13 SHALL COUNT TOWARD THE AGGREGATE CONTRIBUTION.

14 "CHILD-CARE PROVIDER." INCLUDES:

15 (1) A CHILD-CARE CENTER AS DEFINED UNDER 55 PA. CODE §  
16 3270.4 (RELATING TO DEFINITIONS).

17 (2) A GROUP CHILD-CARE HOME AS DEFINED UNDER 55 PA. CODE  
18 § 3280.4 (RELATING TO DEFINITIONS).

19 (3) A FAMILY CHILD-CARE HOME AS DEFINED UNDER 55 PA.  
20 CODE § 3290.4 (RELATING TO DEFINITIONS).

21 "CONTRIBUTION." A PAYMENT MADE TO A CHILD-CARE PROVIDER BY  
22 AN EMPLOYER TO SUBSIDIZE AN EMPLOYEE'S ELIGIBLE CHILD-CARE  
23 COSTS.

24 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

25 "ELIGIBLE CHILD-CARE COSTS." COSTS INCURRED BY AN EMPLOYEE  
26 FOR SERVICES RENDERED BY A CHILD-CARE PROVIDER THAT ARE INCURRED  
27 TO ENABLE THE EMPLOYEE TO BE GAINFULLY EMPLOYED BY A QUALIFIED  
28 TAXPAYER.

29 "EMPLOYEE." AN INDIVIDUAL EMPLOYED BY A QUALIFIED TAXPAYER.  
30 THE TERM SHALL NOT INCLUDE:

1 (1) AN OFFICER OF AN ENTITY SUBJECT TO TAX UNDER ARTICLE  
2 IV, VI, VIII OR XV.

3 (2) AN OFFICER OF AN INSURANCE COMPANY SUBJECT TO TAX  
4 UNDER ARTICLE IX.

5 "PASS-THROUGH ENTITY." ANY OF THE FOLLOWING:

6 (1) A PARTNERSHIP AS DEFINED IN SECTION 301(N.0).

7 (2) A PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION  
8 301(N.1).

9 (3) AN UNINCORPORATED ENTITY SUBJECT TO SECTION 307.21.

10 "QUALIFIED TAX LIABILITY." ANY OF THE TAXES DUE UNDER  
11 ARTICLE III, IV, VII, VIII, IX, XV OR XX OR A TAX UNDER ARTICLE  
12 XVI OF THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE  
13 INSURANCE COMPANY LAW OF 1921. THE TERM SHALL NOT INCLUDE ANY  
14 TAX WITHHELD BY AN EMPLOYER FROM AN EMPLOYEE UNDER ARTICLE III.

15 "QUALIFIED TAXPAYER." AN INDIVIDUAL, PARTNERSHIP,  
16 ASSOCIATION, CORPORATION, GOVERNMENTAL BODY OR UNIT OR AGENCY OR  
17 OTHER ENTITY THAT:

18 (1) IS SUBJECT TO A TAX IMPOSED UNDER ARTICLE III, IV,  
19 VI, VII, VIII, IX, XI OR XV; AND

20 (2) IS REQUIRED UNDER THE INTERNAL REVENUE CODE OF 1986  
21 (PUBLIC LAW 99-514, 26 U.S.C. § 1 ET SEQ.) TO WITHHOLD  
22 FEDERAL INCOME TAX FROM WAGES PAID TO AN EMPLOYEE.

23 SECTION 1903-J. EMPLOYER CHILD CARE CONTRIBUTION TAX CREDIT.

24 (A) GENERAL RULE.--FOR TAXABLE YEARS BEGINNING AFTER  
25 DECEMBER 31, 2024, A QUALIFIED TAXPAYER MAY CLAIM THE EMPLOYER  
26 CHILD CARE CONTRIBUTION TAX CREDIT FOR A CONTRIBUTION MADE  
27 DURING THE TAXABLE YEAR TOWARD AN EMPLOYEE'S ELIGIBLE CHILD-CARE  
28 COSTS AND MAY APPLY THE TAX CREDIT AGAINST ITS QUALIFIED TAX  
29 LIABILITY.

30 (B) APPLICATION.--A QUALIFIED TAXPAYER APPLYING TO CLAIM AN

1 EMPLOYER CHILD CARE CONTRIBUTION TAX CREDIT MUST COMPLETE AND  
2 SUBMIT TO THE DEPARTMENT A CHILD CARE CONTRIBUTION TAX CREDIT  
3 APPLICATION ON A FORM AND IN A MANNER AS DETERMINED BY THE  
4 DEPARTMENT. THE FORM SHALL REQUIRE THE QUALIFIED TAXPAYER TO  
5 PROVIDE THE FOLLOWING:

6 (1) THE NAMES, ADDRESSES AND SOCIAL SECURITY NUMBERS OF  
7 ALL EMPLOYEES TO WHICH THE QUALIFIED TAXPAYER MADE A  
8 CONTRIBUTION DURING THE TAXABLE YEAR.

9 (2) THE NAMES, ADDRESSES AND EMPLOYER IDENTIFICATION  
10 NUMBERS OF THE CHILD-CARE PROVIDERS THAT PROVIDED CHILD-CARE  
11 SERVICES TO EACH PARTICIPATING EMPLOYEE.

12 (3) THE AMOUNT CONTRIBUTED TO EACH PARTICIPATING  
13 EMPLOYEE.

14 (4) THE AGGREGATE CONTRIBUTION.

15 (C) AMOUNT OF TAX CREDIT.--THE AMOUNT OF THE TAX CREDIT  
16 UNDER SUBSECTION (A) SHALL BE EQUAL TO 30% OF THE AGGREGATE  
17 CONTRIBUTION MADE TO EMPLOYEES DURING THE TAX YEAR.

18 (D) LIMITATION ON USE OF TAX CREDIT.--A QUALIFIED TAXPAYER  
19 MAY NOT APPLY THE CREDIT TO MORE THAN ONE TYPE OF TAX UNDER THIS  
20 ARTICLE.

21 SECTION 1904-J. CARRYOVER, CARRYBACK, REFUND AND ASSIGNMENT OF  
22 CREDIT.

23 (A) CARRYOVER, CARRYBACK AND REFUND.--A QUALIFIED TAXPAYER  
24 IS NOT ENTITLED TO CARRY FORWARD, CARRY BACK OR OBTAIN A REFUND  
25 OF ALL OR A PORTION OF AN UNUSED TAX CREDIT GRANTED TO THE  
26 QUALIFIED TAXPAYER UNDER THIS ARTICLE.

27 (B) SALE OR ASSIGNMENT OF TAX CREDIT.--A QUALIFIED TAXPAYER  
28 MAY NOT SELL OR ASSIGN A TAX CREDIT GRANTED TO THE QUALIFIED  
29 TAXPAYER UNDER THIS ARTICLE.

30 SECTION 1905-J. PASS-THROUGH ENTITY.

1 (A) ELECTION.--IF THE QUALIFIED TAXPAYER IS A PASS-THROUGH  
2 ENTITY, THE QUALIFIED TAXPAYER MAY ELECT IN WRITING, ACCORDING  
3 TO PROCEDURES ESTABLISHED BY THE DEPARTMENT, TO TRANSFER ALL OR  
4 A PORTION OF THE CREDIT TO SHAREHOLDERS, MEMBERS OR PARTNERS IN  
5 PROPORTION TO THE SHARE OF THE QUALIFIED TAXPAYER'S DISTRIBUTIVE  
6 INCOME TO WHICH THE SHAREHOLDERS, MEMBERS OR PARTNERS ARE  
7 ENTITLED OR IN ANY OTHER MANNER DESIGNATED BY THE QUALIFIED  
8 TAXPAYER IN ACCORDANCE WITH ITS GOVERNANCE DOCUMENTS AND WITHOUT  
9 REGARD TO HOW DISTRIBUTIVE INCOME, LOSSES OR CREDITS ARE  
10 ALLOCATED FOR OTHER TAX PURPOSES.

11 (B) LIMITATION.--THE SAME UNUSED TAX CREDIT UNDER SUBSECTION  
12 (A) MAY NOT BE CLAIMED BY:

13 (1) THE PASS-THROUGH ENTITY; AND

14 (2) A SHAREHOLDER, MEMBER OR PARTNER OF THE PASS-THROUGH  
15 ENTITY.

16 (C) TIME.--A SHAREHOLDER, MEMBER OR PARTNER OF A PASS-  
17 THROUGH ENTITY UNDER SUBSECTION (A) MAY ONLY USE A TAX CREDIT  
18 DURING A TAXABLE YEAR FOR WHICH USE OF THE CREDIT IS AUTHORIZED.  
19 THE SHAREHOLDER, MEMBER OR PARTNER OF THE PASS-THROUGH ENTITY  
20 MAY NOT CARRY FORWARD, CARRY BACK, OBTAIN A REFUND OF OR SELL OR  
21 ASSIGN THE TAX CREDIT.

22 SECTION 1906-J. EXCLUSION FROM CLASSES OF INCOME.

23 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FIRST \$5,000  
24 IN CONTRIBUTIONS MADE UNDER THIS ARTICLE TO AN EMPLOYEE'S  
25 ELIGIBLE CHILD-CARE COSTS DURING THE TAXABLE YEAR MAY NOT BE  
26 INCLUDED IN ANY OF THE CLASSES OF INCOME ENUMERATED UNDER  
27 SECTION 303.

28 SECTION 1907-J. NONDISCRIMINATION IN CONTRIBUTIONS.

29 (A) EMPLOYEES.--AN EMPLOYEE WHO HAS INCURRED ELIGIBLE CHILD-  
30 CARE COSTS SHALL HAVE EQUAL OPPORTUNITY TO RECEIVE A



1 CONTRIBUTION FROM THE EMPLOYER.

2 (B) DUTY OF EMPLOYERS.--IF AN EMPLOYER CHOOSES TO MAKE  
3 CONTRIBUTIONS TO A CHILD-CARE PROVIDER FOR THE PURPOSES OF  
4 CLAIMING THE TAX CREDIT, THE EMPLOYER SHALL MAKE EQUAL  
5 CONTRIBUTIONS DURING THE TAX YEAR TO ANY EMPLOYEE THAT HAS  
6 ELIGIBLE CHILD-CARE COSTS.

7 SECTION 1908-J. REGULATIONS.

8 (A) PROMULGATION.--THE DEPARTMENT SHALL PROMULGATE  
9 REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

10 (B) GUIDELINES.--THE DEPARTMENT SHALL DEVELOP WRITTEN  
11 GUIDELINES FOR THE IMPLEMENTATION OF THIS ARTICLE. THE  
12 GUIDELINES SHALL BE IN EFFECT UNTIL THE DEPARTMENT PROMULGATES  
13 REGULATIONS FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS  
14 ARTICLE.

15 SECTION 1909-J. APPLICABILITY.

16 THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO TAXABLE YEARS  
17 BEGINNING AFTER DECEMBER 31, 2024.

18 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.