
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1238 Session of
2013

INTRODUCED BY MURT, BARRAR, V. BROWN, CALTAGIRONE, CLYMER,
COHEN, GOODMAN, HESS, KAVULICH, MACKENZIE, MILLARD, MOUL,
PEIFER, ROEBUCK, ROZZI, THOMAS AND TOOHIL, APRIL 22, 2013

REFERRED TO COMMITTEE ON COMMERCE, APRIL 22, 2013

AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania
2 Consolidated Statutes, providing for equipment donation tax
3 credit.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 12 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 43

9 EQUIPMENT DONATION TAX CREDIT

10 Sec.

11 4301. Scope of chapter.

12 4302. Definitions.

13 4303. Establishment.

14 4304. Credit for qualified equipment donation.

15 4305. Carryover, application of tax credit, carryback, refund
16 and assignment.

17 4306. Time limitation.

18 4307. Limitation on tax credits.

1 4308. Shareholder, owner or member pass through.

2 4309. Repayment.

3 4310. Reports.

4 4311. Termination.

5 4312. Guidelines.

6 § 4301. Scope of chapter.

7 This chapter relates to equipment donation tax credits.

8 § 4302. Definitions.

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

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

13 "Pass-through entity." A partnership as defined in section
14 301(n.o) of the act of March 4, 1971 (P.L.6, No.2), known as the
15 Tax Reform Code of 1971, or a Pennsylvania S corporation as
16 defined in section 301(n.1) of the Tax Reform Code of 1971.

17 "Qualified equipment donation." Equipment donated by a
18 taxpayer to an area vocational-technical school that is used to
19 train individuals in a specified vocation.

20 "Qualified tax liability." The liability for taxes imposed
21 under Article III, IV or VI of the act of March 4, 1971 (P.L.6,
22 No.2), known as the Tax Reform Code of 1971. The term shall
23 include the liability for taxes imposed under Article III of the
24 Tax Reform Code of 1971 on an owner of a pass-through entity.

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

26 "Tax credit." The equipment donation tax credit authorized
27 under this chapter.

28 "Taxpayer." A person subject to tax under Article III, IV or
29 VI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
30 Reform Code of 1971. The term shall include the shareholder,

1 owner or member of a pass-through entity that receives an
2 equipment donation tax credit.

3 § 4303. Establishment.

4 There is established a tax credit program to be known as the
5 Equipment Donation Tax Credit.

6 § 4304. Credit for qualified equipment donation.

7 (a) Application.--A taxpayer that made a qualified equipment
8 donation to an area vocational-technical school, as defined in
9 section 1841 of the act of March 10, 1949 (P.L.30, No.14), known
10 as the Public School Code of 1949, in a taxable year may apply
11 for a tax credit. The application must be on a form required by
12 the department and shall include all of the following:

13 (1) The name and address of the taxpayer.

14 (2) The name and address of the area vocational-
15 technical school to which the taxpayer donated equipment.

16 (3) Documentation establishing the current value of the
17 qualified equipment donation.

18 (4) Documentation that the qualified equipment donation
19 has been made by the applicant.

20 (5) Any other information required by the department.

21 (b) Review.--The department shall review the application and
22 determine if:

23 (1) All requirements established under this chapter have
24 been met.

25 (2) The applicant has filed all required State tax
26 reports and returns for all taxable years and paid any
27 balance of State tax due.

28 (c) Approval.--Upon being satisfied with the requirements
29 under subsection (b), the department shall approve the
30 application and award the taxpayer a tax credit for the taxable

1 year in the amount equal to the current value of the qualified
2 equipment donation. The total amount of tax credits awarded to a
3 taxpayer under this chapter shall not exceed \$10,000 each fiscal
4 year.

5 (d) Notification.--The department shall notify the taxpayer
6 of the amount of the taxpayer's tax credit within 30 days after
7 approval by the department.

8 (e) Purchasers and assignees.--The purchaser or assignee of
9 all or a portion of a tax credit under subsection (d) shall
10 immediately claim the tax credit in the taxable year in which
11 the purchase or assignment is made, although the purchaser or
12 assignee may carry over unused tax credits to the succeeding
13 taxable year for up to two years. The amount of the tax credit
14 that a purchaser or assignee may use against any one qualified
15 tax liability may not exceed 75% of the qualified tax liability
16 for the taxable year. The purchaser or assignee may not carry
17 back or obtain a refund of or sell or assign the tax credit. The
18 purchaser or assignee shall notify the department of the seller
19 or assignor of the tax credit in compliance with procedures
20 specified by the department.

21 § 4305. Carryover, application of tax credit, carryback, refund
22 and assignment.

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

1 credit may be carried over and applied to succeeding taxable
2 years for no more than seven taxable years following the first
3 taxable year for which the taxpayer was entitled to claim the
4 tax credit.

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

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

13 (d) Sale or assignment.--A taxpayer, upon application to and
14 approval by the department, may sell or assign, in whole or in
15 part, a tax credit granted to the taxpayer under this chapter if
16 the taxpayer does not have a qualified tax liability against
17 which the tax credit may be applied in the current taxable year.
18 The department shall establish guidelines for the approval of
19 applications under this subsection. Before an application is
20 approved, the department shall make a finding that the taxpayer
21 and its assignee have filed all required State tax reports and
22 returns for all taxable years and paid any balance of State tax
23 due as determined by the department.

24 (e) Purchasers and assignees.--The purchaser or assignee of
25 all or a portion of a tax credit under subsection (d) shall
26 immediately claim the credit in the taxable year in which the
27 purchase or assignment is made, although the purchaser or
28 assignee may carry over unused tax credits to the succeeding
29 taxable year for up to two years. The amount of the tax credit
30 that a purchaser or assignee may use against any one qualified

1 tax liability may not exceed 75% of the qualified tax liability
2 for the taxable year. The purchaser or assignee may not carry
3 back or obtain a refund of or sell or assign the tax credit. The
4 purchaser or assignee shall notify the department of the seller
5 or assignor of the tax credit in compliance with procedures
6 specified by the department.

7 § 4306. Time limitation.

8 A taxpayer shall not be entitled to a tax credit for
9 qualified equipment donations made in taxable years ending after
10 December 31, 2022.

11 § 4307. Limitation on tax credits.

12 (a) Total amount.--The total amount of tax credits approved
13 by the department in any calendar year shall not exceed
14 \$5,000,000.

15 (b) Allocation.--Tax credits shall be allocated by the
16 department on a first-come-first-served basis.

17 § 4308. Shareholder, owner or member pass through.

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

26 (b) Pass-through entity entitlement.--If a pass-through
27 entity other than a Pennsylvania S corporation does not have 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 entities' distributive income to which the owner or
3 member is entitled.

4 (c) Additional credit.--

5 (1) Except as provided under paragraph (2), the tax
6 credit provided under subsection (a) or (b) shall be in
7 addition to any other tax credit to which a shareholder,
8 owner or member of a pass-through entity is otherwise
9 entitled under this chapter.

10 (2) A pass-through entity and a shareholder, owner or
11 member of a pass-through entity shall not claim a tax credit
12 under this chapter for the same qualified equipment donation.

13 § 4309. Repayment.

14 The department shall require the taxpayer to repay any tax
15 credit received under this chapter that is in excess of the
16 current value of the qualified equipment donation where the
17 department determines that any of the following conditions
18 exists:

19 (1) the area vocational-technical school is no longer in
20 operation;

21 (2) the area vocational-technical school returns any or
22 all donated equipment to the taxpayer; or

23 (3) the taxpayer received the tax credit as a result of
24 fraud.

25 § 4310. Reports.

26 The secretary shall submit an annual report to the chairmen
27 and minority chairmen of the standing committees in the Senate
28 and the chairmen and minority chairmen of the standing
29 committees in the House of Representatives with jurisdiction
30 over the department indicating the effectiveness of the tax

1 credit provided under this chapter no later than March 15
2 following the fiscal year in which the tax credits were
3 approved. Notwithstanding any law providing for the
4 confidentiality of tax records, the report shall include the
5 names of all taxpayers awarded the tax credits, all taxpayers
6 utilizing the tax credits, the amount of tax credits approved
7 and utilized by each taxpayer and the names and locations of the
8 qualified business ventures for which the tax credits were
9 awarded. The report may also include any recommendations for
10 changes in the calculation or administration of the tax credit.
11 The report and the information contained in it shall be
12 considered a public record under section 102 of the act of
13 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.
14 § 4311. Termination.

15 The department shall not approve a tax credit for qualified
16 equipment donations incurred in taxable years ending after
17 December 31, 2022.

18 § 4312. Guidelines.

19 The department shall develop written guidelines for the
20 implementation and administration of this chapter. The
21 guidelines shall be posted on the department's publicly
22 accessible Internet website.

23 Section 2. The addition of 12 Pa.C.S. Ch. 43 shall apply to
24 qualified equipment donations made in taxable years beginning
25 after December 31, 2012.

26 Section 3. This act shall take effect immediately.