

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1745 Session of 2023

INTRODUCED BY FRIEL, MARCELL, HILL-EVANS, T. DAVIS, McNEILL, BRENNAN, MADDEN, HANBIDGE, ROZZI, SANCHEZ, WEBSTER, GUENST, PROBST, KAZEEM, SHUSTERMAN, OTTEN, BOROWSKI, DALEY, TAKAC, GREEN, ISAACSON, CERRATO, KHAN AND PIELLI, OCTOBER 31, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MARCH 19, 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," in personal income tax, further providing for
11 classes of income; and providing for 529 savings account
12 employer contribution tax credit.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 303(a.7)(2)(i) of the act of March 4,
16 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is
17 amended by adding a clause to read:

18 Section 303. Classes of Income.--* * *

19 (a.7) The following apply:

20 * * *

21 (2) (i) The following shall not be subject to tax under

1 this article:

2 * * *

3 (E) Any amount received by an employe through an employer's
4 contribution to an account ~~owned by an employe who has entered~~ <--
5 into a Tuition Account Program Contract under the act of April
6 3, 1992 (P.L.28, No.11), known as the "Tuition Account Programs
7 and College Savings Bond Act." AS DEFINED UNDER ARTICLE XIX-J OR <--
8 AN ABLE ACCOUNT CONTRACT UNDER THE ACT OF APRIL 18, 2016
9 (P.L.128, NO.17), KNOWN AS THE "PENNSYLVANIA ABLE ACT."

10 * * *

11 Section 2. The act is amended by adding an article to read:

12 ARTICLE XIX-J

13 529 SAVINGS ACCOUNT EMPLOYER

14 CONTRIBUTION TAX CREDIT

15 Section 1901-J. Scope of article.

16 This article relates to the 529 savings account employer
17 contribution tax credit program.

18 Section 1902-J. Definitions.

19 The following words and phrases when used in this article
20 have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "ABLE ACCOUNT." AN ACCOUNT UNDER THE ACT OF APRIL 18, 2016 <--
23 (P.L.128, NO.17), KNOWN AS THE PENNSYLVANIA ABLE ACT.

24 "ABLE ACCOUNT CONTRACT." AS DEFINED IN SECTION 102 OF THE
25 PENNSYLVANIA ABLE ACT.

26 "Account." An account owned by an employee who has entered
27 into a Tuition Account Program Contract under the act of April
28 3, 1992 (P.L.28, No.11), known as the Tuition Account Programs
29 and College Savings Bond Act, ~~or a tuition account program~~ <--
30 contract OR AN ABLE ACCOUNT CONTRACT, OR A TUITION ACCOUNT <--

1 PROGRAM CONTRACT OR AN ABLE ACCOUNT PROGRAM administered by
2 another state, notwithstanding the named beneficiary of the
3 account.

4 "Contribution." A deposit of money into an employee-owned
5 account during the tax year.

6 "Department." The Treasury Department of the Commonwealth.

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

8 (1) A partnership as defined in section 301(n.0).

9 (2) A Pennsylvania S corporation as defined in section
10 301(n.1).

11 (3) An unincorporated entity subject to section 307.21.

12 "State tax liability." Any of the taxes due under Article
13 III, IV, VII, VIII, IX, XV or XX or a tax under Article XVI of
14 the act of May 17, 1921 (P.L.682, No.284), known as The
15 Insurance Company Law of 1921. The term shall not include any
16 tax withheld by an employer from an employee under Article III.

17 "Tax credit." The 529 savings account employer contribution
18 tax credit established under section 1903-J.

19 "Tuition Account Program Contract." As defined in section
20 302 of the Tuition Account Programs and College Savings Bond
21 Act.

22 Section 1903-J. Credit for employer contributions to tuition
23 savings accounts AND ABLE ACCOUNTS. <--

24 (a) Tax credit.--For taxable years beginning after December
25 31, 2023, and ending before January 1, 2029, an employer that
26 makes a contribution to an account owned by an employee under
27 the Tuition Account Guaranteed Savings Program or Tuition <--
28 Account Investment Program THIS ARTICLE OR AN ABLE ACCOUNT may <--
29 claim a tax credit against the employer's State tax liability.

30 (b) Amount of tax credit.--The amount of the tax credit

1 under subsection (a) shall be equal to 25% of the employer's
2 aggregate contributions made to accounts owned by employees
3 during the tax year.

4 (c) Contribution limit for employers.--The total amount of
5 contributions that an employer may make to accounts owned by
6 employees shall be no more than \$500 per employee during the tax
7 year.

8 (d) Proof of contribution.--In order to receive the tax
9 credit, an employer shall provide the department with proof that
10 the employer has made qualifying contributions to employee-owned
11 accounts under this article at the time of filing the employer's
12 tax return.

13 Section 1904-J. Carryover, carryback, assignment and pass-
14 through of credit.

15 (a) General rule.--If the amount of the tax credit allowed
16 under this article exceeds the employer's tax liability in the
17 tax year in which the tax credit is approved, the excess tax
18 credit may be carried over to succeeding tax years for a period
19 not to exceed three years to reduce the employer's tax liability
20 during those tax years. The following shall apply:

21 (1) A tax credit that is carried over to succeeding tax
22 years must be applied first to the earliest tax year
23 possible.

24 (2) Any credit remaining after three tax years following
25 the initial approval of a tax credit under this article shall
26 not be refunded or credited to the employer.

27 (b) No carryback or refund.--An employer approved for a tax
28 credit is not entitled to carry back or obtain a refund of all
29 or any portion of an unused tax credit granted to the employer
30 under this article.

1 (c) Pass-through entity.--If an employer is a pass-through
2 entity and has an unused tax credit under section 1903-J, the
3 employer may elect in writing, according to procedures
4 established by the Department of Revenue, to transfer all or a
5 portion of the credit to shareholders, members or partners in
6 proportion to the share of the entity's distributive income to
7 which the shareholder, member or partner is entitled. The
8 following apply:

9 (1) The same unused tax credit under subsection (b) may
10 not be claimed by:

11 (i) the pass-through entity; and

12 (ii) a shareholder, member or patron of the pass-
13 through entity.

14 (2) A shareholder, member or partner of a pass-through
15 entity to whom a credit is transferred under this subsection
16 shall immediately claim the credit in the taxable year in
17 which the transfer is made. The shareholder, member or
18 partner may not carry forward, carry back, obtain a refund of
19 or sell or assign the credit.

20 Section 1905-J. Departmental duties.

21 (a) Guidelines.--The department shall publish guidelines and
22 may promulgate regulations necessary for the implementation and
23 administration of this article.

24 (b) Verification of contributions.--The department shall
25 provide the Department of Revenue with information necessary to
26 verify that an employer applying for a tax credit under this
27 article has made contributions to employees' accounts and the
28 aggregate amount of contributions made.

29 Section 1906-J. Nondiscrimination in contributions.

30 (a) Accounts owned by employees.--An employee who owns an

1 account shall have equal opportunity to receive a contribution
2 from the employer.

3 (b) Duty of employers.--If an employer chooses to make
4 contributions to employee-owned accounts for the purposes of
5 claiming the tax credit, the employer shall make equal
6 contributions during the tax year to any employee that either
7 owns an account or chooses to open an account while employed by
8 the employer.

9 (c) Rights of employees.--An employee who owns an account
10 may voluntarily opt out of an employer contribution benefit
11 during any tax year. An employee who opts out of a contribution
12 benefit from the employer during one tax year may elect to
13 receive the contribution benefit during another succeeding tax
14 year.

15 Section 1907-J. Report to General Assembly.

16 (a) Annual report.--No later than July 1, 2024, and each
17 July 1 thereafter, the department shall submit a report to the
18 General Assembly indicating the effectiveness of the tax credit
19 under this article.

20 (b) Information required.--The report required under
21 subsection (a) shall include the following information:

22 (1) The number of tax credits approved under this
23 article.

24 (2) The amount of tax credits approved under this
25 article.

26 (3) The number of tax credits denied and the reason for
27 denial.

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