

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, FIEDLER, GREEN AND WEBSTER, FEBRUARY 20, 2024

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 8, 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 credit.

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

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
15 the Tax Reform Code of 1971, is amended by adding an article to
16 read:

ARTICLE XIX-J

EMPLOYER CHILD CARE CONTRIBUTION TAX CREDIT

19 Section 1901-J. Scope of article.

20 This article establishes the Employer Child Care Contribution

1 Tax Credit.

2 Section 1902-J. Definitions.

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

6 "Aggregate contribution." The aggregate contribution that a
7 qualified taxpayer makes to all employees during the taxable
8 year for which the qualified taxpayer seeks the employer child
9 care contribution tax credit established under this article,
10 provided that only the first \$500 in contributions per employee
11 shall count toward the aggregate contribution.

12 "Child-care provider." Includes:

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

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

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

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

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

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

27 "Employee." An individual employed by a qualified taxpayer.

28 The term shall not include:

29 (1) An officer of an entity subject to tax under Article
30 ~~IV, VI, VIII or XV~~ IV, VIII, XV OR XX.

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1 (2) An officer of an insurance company subject to tax
2 under Article IX.

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

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

5 (2) A Pennsylvania S corporation as defined in section
6 301(n.1).

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

8 "Qualified tax liability." Any of the taxes due under

9 Article III, IV, VII, VIII, IX, XI, XV or XX or a tax under <--

10 Article XVI of the act of May 17, 1921 (P.L.682, No.284), known

11 as The Insurance Company Law of 1921. The term shall not include

12 any tax withheld by an employer from an employee under Article

13 III.

14 "Qualified taxpayer." An individual, partnership,

15 association, corporation, governmental body or unit or agency or

16 other entity that:

17 (1) is subject to a tax imposed under Article ~~III, IV,~~ <--

18 ~~VI, VII, VIII, IX, XI or XV~~ III, IV, VII, VIII, IX, XI, XV OR <--

19 XX; 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. TAX COMPLIANCE.

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16 THE PROVISIONS OF ARTICLE XVII-A.1 APPLY TO THE APPLICATION
17 OF THIS ARTICLE.

18 Section ~~1909-J~~ 1910-J. Applicability.

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19 The provisions of this article shall apply to taxable years
20 beginning after December 31, 2024.

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

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22 IMMEDIATELY.

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