

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 509 Session of 2023

INTRODUCED BY KEEFER, HAMM, JAMES, IRVIN, PICKETT, MOUL,  
KAUFFMAN, M. JONES, ROWE, LEADBETER AND GILLEN,  
MARCH 17, 2023

REFERRED TO COMMITTEE ON FINANCE, MARCH 17, 2023

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 entertainment production tax credit, further  
11 providing for carryover, carryback and assignment of credit.

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

14 Section 1. Sections 1714-D(c), (e) and (f) and 1755-D(c),  
15 (e) and (f) of the act of March 4, 1971 (P.L.6, No.2), known as  
16 the Tax Reform Code of 1971, are amended to read:

17 Section 1714-D. Carryover, carryback and assignment of credit.

18 \* \* \*

19 (c) No carryback [or], refund, sale or assignment.--[A  
20 taxpayer is not entitled to carry back or obtain a refund of] A  
21 taxpayer is not entitled to carry back, obtain a refund, sell or  
22 assign all or any portion of an unused tax credit granted to the

1 taxpayer under this subarticle.

2 \* \* \*

3 (e) [Sale or assignment.--The following shall apply:

4 (1) A taxpayer, upon application to and approval by the  
5 department, may sell or assign, in whole or in part, a tax  
6 credit granted to the taxpayer under this subarticle.

7 (2) The department and the Department of Revenue shall  
8 jointly promulgate regulations for the approval of  
9 applications under this subsection.

10 (3) Before an application is approved, the Department of  
11 Revenue must make a finding that the applicant has filed all  
12 required State tax reports and returns for all applicable  
13 taxable years and paid any balance of State tax due as  
14 determined at settlement, assessment or determination by the  
15 Department of Revenue.

16 (4) Notwithstanding any other provision of law, the  
17 Department of Revenue shall settle, assess or determine the  
18 tax of an applicant under this subsection within 90 days of  
19 the filing of all required final returns or reports in  
20 accordance with section 806.1(a)(5) of the act of April 9,  
21 1929 (P.L.343, No.176), known as The Fiscal Code.]

22 (Reserved).

23 (f) [Purchasers and assignees.--Except as provided in  
24 subsections (g) and (h), the following apply:

25 (1) The purchaser or assignee of all or a portion of a  
26 tax credit under subsection (e) shall immediately claim the  
27 credit in the taxable year in which the purchase or  
28 assignment is made.

29 (2) The amount of the tax credit that a purchaser or  
30 assignee may use against any one qualified tax liability may

1 not exceed 50% of such qualified tax liability for the  
2 taxable year.

3 (3) The purchaser or assignee may not carry forward,  
4 carry back or obtain a refund of or sell or assign the tax  
5 credit.

6 (4) The purchaser or assignee shall notify the  
7 Department of Revenue of the seller or assignor of the tax  
8 credit in compliance with procedures specified by the  
9 Department of Revenue.] (Reserved).

10 \* \* \*

11 Section 1755-D. Carryover, carryback and assignment of credit.

12 \* \* \*

13 (c) No carryback [~~or~~], refund, sale or assignment.--[A  
14 taxpayer is not entitled to carry back or obtain a refund of] A  
15 taxpayer is not entitled to carry back, obtain a refund, sell or  
16 assign all or any portion of an unused tax credit granted to the  
17 taxpayer under this subarticle.

18 \* \* \*

19 (e) [~~Sale or assignment.~~--The following shall apply:

20 (1) A taxpayer, upon application to and approval by the  
21 department, may sell or assign, in whole or in part, a tax  
22 credit granted to the taxpayer under this subarticle.

23 (2) The department and the Department of Revenue shall  
24 jointly promulgate regulations for the approval of  
25 applications under this subsection.

26 (3) Before an application is approved, the Department of  
27 Revenue must make a finding that the applicant has filed all  
28 required State tax reports and returns for all applicable  
29 taxable years and paid any balance of State tax due as  
30 determined at settlement, assessment or determination by the

1 Department of Revenue.

2 (4) Notwithstanding any other provision of law, the  
3 Department of Revenue shall settle, assess or determine the  
4 tax of an applicant under this subsection within 90 days of  
5 the filing of all required final returns or reports in  
6 accordance with section 806.1(a)(5) of the act of April 9,  
7 1929 (P.L.343, No.176), known as The Fiscal Code.]

8 (Reserved).

9 (f) [Purchasers and assignees.--The purchaser or assignee of  
10 all or a portion of a tax credit under subsection (e) shall  
11 immediately claim the tax credit in the taxable year in which  
12 the purchase or assignment is made. The amount of the tax credit  
13 that a purchaser or assignee may use against any one qualified  
14 tax liability may not exceed 50% of such qualified tax liability  
15 for the taxable year. The purchaser or assignee may not carry  
16 forward, carry back or obtain a refund of or sell or assign the  
17 tax credit. The purchaser or assignee shall notify the  
18 Department of Revenue of the seller or assignor of the tax  
19 credit in compliance with procedures specified by the Department  
20 of Revenue.] (Reserved).

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