

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 73 Session of 2021

INTRODUCED BY KEEFER, RYAN, PICKETT, GREINER, KAUFFMAN, IRVIN, HAMM, JAMES, GLEIM, GROVE, BROOKS, ZIMMERMAN, COX, GAYDOS, WEBSTER AND MOUL, JANUARY 11, 2021

REFERRED TO COMMITTEE ON FINANCE, JANUARY 11, 2021

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. Section 1714-D(c), (e) and (f) of the act of
 15 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
 16 1971, amended June 28, 2019 (P.L.50, No.13), are amended to
 17 read:

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

19 * * *

20 (c) No carryback [or], refund, sale or assignment.--[A
 21 taxpayer is not entitled to carry back or obtain a refund of] A
 22 taxpayer is not entitled to carry back, obtain a refund, sell or

1 assign all or any portion of an unused tax credit granted to the
2 taxpayer under this subarticle.

3 * * *

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

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

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

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

17 (4) Notwithstanding any other provision of law, the
18 Department of Revenue shall settle, assess or determine the
19 tax of an applicant under this subsection within 90 days of
20 the filing of all required final returns or reports in
21 accordance with section 806.1(a)(5) of the act of April 9,
22 1929 (P.L.343, No.176), known as The Fiscal Code.]

23 (Reserved).

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

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

30 (2) The amount of the tax credit that a purchaser or

1 assignee may use against any one qualified tax liability may
2 not exceed 50% of such qualified tax liability for the
3 taxable year.

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

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

11 * * *

12 Section 2. Section 1755-D(c), (e) and (f) of the act are
13 amended to read:

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

15 * * *

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

21 * * *

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

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

26 (2) The department and the Department of Revenue shall
27 jointly promulgate regulations for the approval of
28 applications under this subsection.

29 (3) Before an application is approved, the Department of
30 Revenue must make a finding that the applicant has filed all

1 required State tax reports and returns for all applicable
2 taxable years and paid any balance of State tax due as
3 determined at settlement, assessment or determination by the
4 Department of Revenue.

5 (4) Notwithstanding any other provision of law, the
6 Department of Revenue shall settle, assess or determine the
7 tax of an applicant under this subsection within 90 days of
8 the filing of all required final returns or reports in
9 accordance with section 806.1(a)(5) of the act of April 9,
10 1929 (P.L.343, No.176), known as The Fiscal Code.]

11 (Reserved).

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

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