
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 676 Session of
2015

INTRODUCED BY WARD, SCAVELLO, GREENLEAF, BARTOLOTTA, RAFFERTY,
WILEY, GORDNER, STEFANO, SMITH, BAKER AND YUDICHAK,
MAY 1, 2015

REFERRED TO FINANCE, MAY 1, 2015

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 the PTP Statewide tourism marketing
11 and promotion 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:

17 ARTICLE XIX-D

18 PTP STATEWIDE TOURISM MARKETING

19 AND PROMOTION TAX CREDIT

20 Section 1901-D. Definitions.

21 The following words and phrases when used in this article
22 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Contribution." A donation of cash, personal property, in-
3 kind contributions or tourism and travel marketing and promotion
4 services, the value of which is determined by the Department of
5 Community and Economic Development in cooperation with the
6 Pennsylvania Tourism Partnership.

7 "Department." The Department of Community and Economic
8 Development of the Commonwealth.

9 "Pass-through entity." A partnership as defined in section
10 301(n.0), a single-member limited liability company treated as a
11 disregarded entity for Federal income tax purposes or a
12 Pennsylvania S corporation as defined in section 301(n.1).

13 "PTP." The Pennsylvania Tourism Partnership incubated by
14 Team Pennsylvania Foundation to be established as a not-for-
15 profit corporation under 15 Pa.C.S. Subpart C (relating to
16 nonprofit corporations).

17 "Qualified tax liability." The liability for taxes imposed
18 under Article III, IV, VI, VII or IX. The term shall not include
19 any tax withheld by an employer from an employee under Article
20 III.

21 "Tax credit." The PTP Statewide tourism marketing and
22 promotion tax credit established under this article.

23 "Taxpayer." An entity subject to tax under Article III, IV,
24 VI, VII or IX. The term shall include the shareholder of a
25 Pennsylvania S corporation that receives a PTP Statewide tourism
26 marketing and promotion tax credit.

27 Section 1902-D. Tax credit.

28 (a) Eligibility.--A taxpayer shall be eligible for a tax
29 credit for contributions made to and accepted by the PTP and
30 approved by the department. The PTP shall notify the department

1 in writing of the acceptance of a contribution and shall include
2 the following:

3 (1) the name of the donor;

4 (2) the amount or value of the contribution; and

5 (3) the type of contribution.

6 (b) Amount of tax credits.--Except as provided in subsection
7 (c), the amount of the tax credit for the taxable year shall not
8 exceed 70% of the value of contributions made to the PTP under
9 subsection (a). The amount of the tax credit shall not exceed
10 the total qualified tax liability of the taxpayer for the
11 taxable year.

12 (c) Additional amount of tax credit.--The amount of the tax
13 credit for the taxable year shall not exceed 85% of the value of
14 contributions made to the PTP under subsection (a), if the
15 taxpayer provides a written commitment to provide the PTP with
16 the same amount of contributions for three consecutive years.
17 The taxpayer must provide the written commitment under this
18 subsection to the department at the time of application.

19 (d) Limitation on single taxpayer tax credits.--No single
20 taxpayer shall receive more than 20% of the total amount of tax
21 credits authorized under this article in a fiscal year.

22 (e) Availability of tax credits.--Tax credits shall be made
23 available by the department on a first-come, first-served basis.

24 (f) Application for credits.--A taxpayer may apply to the
25 department for a tax credit. The application shall be on the
26 form required by the department.

27 (g) Review and approval.--The department shall establish an
28 application period not to exceed 90 days each fiscal year. All
29 applications received during the application period shall be
30 reviewed by the department to verify that the contributions have

1 been made to and accepted by the PTP. Applications not approved
2 as a result of having exceeded the total amount of tax credits
3 allowed under section 1906-D may be reviewed and considered in
4 subsequent application periods.

5 (h) Contract and tax credit certificate.--If the department
6 approves the taxpayer's application under this section, the
7 department and the taxpayer shall enter into a contract and upon
8 the execution of the contract the department shall award the
9 taxpayer a tax credit and issue the taxpayer a tax credit
10 certificate. The taxpayer must present the tax credit
11 certificate to the Department of Revenue to claim a tax credit
12 against the qualified tax liability of the taxpayer.

13 Section 1903-D. PTP Statewide tourism marketing and promotion
14 tax credits.

15 A taxpayer may claim a tax credit against the qualified tax
16 liability of the taxpayer.

17 Section 1904-D. Carryover, carryback, refund and assignment of
18 tax credit.

19 (a) General rule.--If the taxpayer cannot use the entire
20 amount of the tax credit for the taxable year in which the tax
21 credit is first approved, the excess may be carried over to
22 succeeding taxable years and used as a credit against the
23 qualified tax liability of the taxpayer for those taxable years.
24 Each time the tax credit is carried over to a succeeding taxable
25 year, it shall be reduced by the amount that was used as a
26 credit during the immediately preceding taxable year. The tax
27 credit provided by this article may be carried over and applied
28 to succeeding taxable years for not more than three taxable
29 years following the first taxable year for which the taxpayer
30 was entitled to claim the tax credit.

1 (b) Application.--A tax credit approved by the department in
2 a taxable year first shall be applied against the taxpayer's
3 qualified tax liability for the current taxable year as of the
4 date on which the credit was approved before the tax credit can
5 be applied against any tax liability under subsection (a). A
6 taxpayer may not carry back, obtain a refund of or sell or
7 assign the tax credit.

8 Section 1905-D. Pass-through entity.

9 (a) General rule.--If a pass-through entity has any unused
10 tax credit under section 1902-D, it may elect in writing,
11 according to procedures established by the Department of
12 Revenue, to transfer all or a portion of the tax credit to
13 shareholders, members or partners in proportion to the share of
14 the entity's distributive income to which the shareholder,
15 member or partner is entitled.

16 (b) Limitation.--A pass-through entity and a shareholder,
17 member or partner of a pass-through entity shall not claim the
18 tax credit under subsection (a) for the same contributions.

19 (c) Application.--A shareholder, member or partner of a
20 pass-through entity to whom a tax credit is transferred under
21 subsection (a) shall immediately claim the tax credit in the
22 taxable year in which the transfer is made. The shareholder,
23 member or partner may not carry forward, carry back, obtain a
24 refund of or sell or assign the tax credit.

25 Section 1906-D. Annual cap on tax credits.

26 The total amount of tax credits approved under this article
27 shall not be more than \$10,000,000 in a fiscal year.

28 Section 1907-D. Report to General Assembly.

29 The Secretary of Community and Economic Development shall
30 submit an annual report to the General Assembly indicating the

1 effectiveness of the tax credit not later than June 30 following
2 the year in which the tax credits were approved. The report
3 shall include the names of all taxpayers utilizing the tax
4 credit as of the date of the report and the amount of tax
5 credits approved and used by each taxpayer. Notwithstanding any
6 law providing for the confidentiality of tax records, the
7 information contained in the report shall be public information.
8 Section 1908-D. Regulations.

9 The department shall promulgate regulations necessary for the
10 implementation and administration of this article.

11 Section 1909-D. Contribution usage.

12 Contributions shall be used by the PTP or, in the event PTP
13 ceases to exist, the department for Statewide marketing and
14 promotion of tourism and travel in this Commonwealth consistent
15 with the goals established by the PTP steering committee. Up to
16 2% of contributions may be used by PTP for administrative costs.
17 In no event may any portion of the contributions be used by the
18 department for administrative costs.

19 Section 1910-D. Guidelines.

20 The department shall consult with the Department of
21 Agriculture and the Department of Conservation and Natural
22 Resources for the purpose of developing guidelines indicating
23 what is acceptable and reasonable in terms of Statewide
24 marketing and promoting of tourism and travel in this
25 Commonwealth. These guidelines shall be submitted to the PTP
26 steering committee for consideration and input.

27 Section 1911-D. Audit.

28 The PTP shall submit to an annual audit according to
29 generally accepted accounting procedures to ensure the
30 contributions received by the PTP have been used for Statewide

1 marketing and promotion of tourism and travel in this
2 Commonwealth. A copy of the audit report shall be provided to
3 the General Assembly.

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