
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1391 Session of
2023

INTRODUCED BY SHUSTERMAN, HILL-EVANS, MADDEN, CIRESI, SANCHEZ,
SIEGEL, NEILSON, BRIGGS, CONKLIN AND GREEN, JUNE 13, 2023

REFERRED TO COMMITTEE ON TOURISM AND ECONOMIC AND RECREATIONAL
DEVELOPMENT, JUNE 13, 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," providing for the tourism marketing and promotion
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:

17 ARTICLE XIX-J

18 TOURISM MARKETING AND

19 PROMOTION TAX CREDIT

20 Section 1901-J. 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 marketing and promotion services,
4 the value of which is determined by the department.

5 "Department." The Department of Community and Economic
6 Development of the Commonwealth.

7 "Pass-through entity." A partnership as defined under
8 section 301(n.0) or a Pennsylvania S corporation or small
9 corporation as defined under section 301(n.1) and (s.2).

10 "Qualified tax liability." The liability for taxes imposed
11 under Article III, IV or VI. The term includes the liability for
12 taxes imposed under Article III on a shareholder of a
13 Pennsylvania S corporation. The term does not include tax
14 withheld by an employer from an employee under Article III.

15 "Tax credit." The tourism marketing and promotion tax credit
16 established under this article.

17 "Taxpayer." An entity subject to tax under Article III, IV
18 or VI. The term includes the shareholder of a Pennsylvania S
19 corporation that receives a tourism marketing and promotion tax
20 credit.

21 Section 1902-J. Tourism marketing and promotion tax credit.

22 (a) Establishment.--The tourism marketing and promotion tax
23 credit is established to promote tourism. The department shall
24 administer the tax credit as provided under this article.

25 (b) Eligibility.--The department may award a tax credit for
26 contributions made to and accepted by the department. The
27 department shall, by November 1, notify the following:

28 (1) The Department of Revenue of the amount of the award
29 up to the capped amount, including:

30 (i) the name of each donor;

1 (ii) the Federal entity identification number of
2 each donor; and
3 (iii) the value of each contribution.

4 (2) The taxpayer of the award.

5 (c) Amount of tax credits.--The amount of the tax credit for
6 the taxable year shall be 55% of the value of contributions made
7 to the department under subsection (b).

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

11 (e) Claim.--A taxpayer awarded a tax credit by the
12 department under this section may claim the tax credit against
13 qualified tax liabilities incurred in the taxable year in which
14 a contribution is made.

15 Section 1903-J. Carryover, carryback, refund and assignment of
16 tax credit.

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

29 (b) Application of tax credit.--A tax credit approved by the
30 department in a taxable year first shall be applied against the

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

6 Section 1904-J. Pass-through entity.

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

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

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

23 Section 1905-J. Annual cap on tax credits.

24 The total amount of tax credits approved under this article
25 may not be more than \$25,000,000 in a fiscal year.

26 Section 1906-J. Report to General Assembly.

27 The department shall submit an annual report to the General
28 Assembly indicating the effectiveness of the tax credit not
29 later than June 30 following the year in which the tax credit
30 was established. The report shall include the names of all

1 taxpayers awarded the tax credit as of the date of the report
2 and the amount of tax credits approved by each taxpayer.
3 Notwithstanding any law providing for the confidentiality of tax
4 records, the information contained in the report shall be public
5 information.

6 Section 1907-J. Regulations.

7 The department may promulgate regulations or guidelines
8 necessary for the implementation and administration of this
9 article.

10 Section 1908-J. Expiration.

11 This article shall expire July 1, 2028.

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