

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1745 Session of 2023

INTRODUCED BY FRIEL, MARCELL, HILL-EVANS, T. DAVIS, McNEILL, BRENNAN, MADDEN, HANBIDGE, ROZZI, SANCHEZ, WEBSTER, GUENST, PROBST, KAZEEM, SHUSTERMAN, OTTEN, BOROWSKI, DALEY, TAKAC, GREEN, ISAACSON, CERRATO, KHAN, PIELLI, KENYATTA AND WARREN, OCTOBER 31, 2023

SENATOR HUTCHINSON, FINANCE, IN SENATE, AS AMENDED, JUNE 5, 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," in personal income tax, further providing for
11 classes of income; and providing for 529 savings account
12 employer MATCHING contribution tax credit AND TUITION ACCOUNT <--
13 PROGRAMS.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 ~~Section 1. Section 303(a.7)(2)(i) of the act of March 4, <--~~
17 ~~1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is~~
18 ~~amended by adding a clause to read:~~

19 SECTION 1. SECTION 303(A.7)(2)(I)(B) OF THE ACT OF MARCH 4, <--
20 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, IS
21 AMENDED AND THE SECTION IS AMENDED BY ADDING A CLAUSE TO READ:

1 Section 303. Classes of Income.--* * *

2 (a.7) The following apply:

3 * * *

4 (2) (i) The following shall not be subject to tax under
5 this article:

6 * * *

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7 (B) [ANY ROLLOVER THAT IS EXCLUDABLE FROM TAX UNDER SECTION
8 529(C) (3) (C) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.]

9 ANY DISTRIBUTION THAT IS EXCLUDABLE FROM TAX UNDER SECTION 529
10 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

11 * * *

12 (E) Any amount received by an employe through an employer's
13 MATCHING contribution to an account as defined under Article
14 XIX-J or an ABLE account contract under the act of April 18,
15 2016 (P.L.128, No.17), known as the "Pennsylvania ABLE Act."

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16 * * *

17 Section 2. The act is amended by adding ~~an article~~ ARTICLES
18 to read:

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19 ARTICLE XIX-J

20 529 SAVINGS ACCOUNT EMPLOYER

21 MATCHING CONTRIBUTION TAX CREDIT

<--

22 Section 1901-J. Scope of article.

23 This article relates to the 529 savings account employer
24 MATCHING contribution tax credit program.

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25 Section 1902-J. Definitions.

26 The following words and phrases when used in this article
27 have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "ABLE account." An account under the act of April 18, 2016
30 (P.L.128, No.17), known as the Pennsylvania ABLE Act.

1 "ABLE account contract." As defined in section 102 of the
2 Pennsylvania ABLE Act.

3 "Account." An account owned by an employee who has entered
4 into a Tuition Account Program Contract under the act of April
5 3, 1992 (P.L.28, No.11), known as the Tuition Account Programs
6 and College Savings Bond Act, or an ABLE account contract, or a
7 tuition account program contract or an ABLE account program
8 administered by another state, notwithstanding the named
9 beneficiary of the account.

10 ~~"Contribution." A deposit of money into an employee owned~~ <--
11 ~~account during the tax year.~~

12 "Department." The ~~Treasury Department~~ DEPARTMENT OF REVENUE <--
13 of the Commonwealth.

14 "MATCHING CONTRIBUTION." A DEPOSIT OF MONEY BY AN EMPLOYER <--
15 INTO AN EMPLOYEE-OWNED ACCOUNT DURING THE TAX YEAR THAT DOES NOT
16 EXCEED THE AMOUNT OF DEPOSITS MADE INTO THAT ACCOUNT BY THE
17 EMPLOYEE DURING THE SAME TAX YEAR.

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

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

20 (2) A Pennsylvania S corporation as defined in section
21 301(n.1).

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

23 "State tax liability." Any of the taxes due under Article
24 III, IV, VII, VIII, IX, XV or XX or a tax under Article XVI of
25 the act of May 17, 1921 (P.L.682, No.284), known as The
26 Insurance Company Law of 1921. The term shall not include any
27 tax withheld by an employer from an employee under Article III.

28 "Tax credit." The 529 savings account employer MATCHING <--
29 contribution tax credit established under section 1903-J.

30 "Tuition Account Program Contract." As defined in section

1 302 of the Tuition Account Programs and College Savings Bond
2 Act.
3 Section 1903-J. Credit for employer MATCHING contributions to <--
4 tuition savings accounts and ABLE accounts.
5 (a) Tax credit.--For taxable years beginning after December
6 31, 2023 2024, and ending before January 1, 2029 2030, an <--
7 employer that makes a MATCHING contribution to an account owned <--
8 by an employee under this article or an ABLE account may claim a
9 tax credit against the employer's State tax liability.
10 (b) Amount of tax credit.--The amount of the tax credit
11 under subsection (a) shall be equal to 25% of the employer's
12 aggregate MATCHING contributions made to accounts owned by <--
13 employees during the tax year.
14 ~~(c) Contribution limit for employers. The total amount of~~ <--
15 ~~contributions that an employer may make to accounts owned by~~
16 ~~employees shall be no more than \$500 per employee during the tax~~
17 ~~year.~~
18 (C) TAX CREDIT LIMIT FOR EMPLOYERS.--THE TOTAL AMOUNT OF <--
19 MATCHING CONTRIBUTIONS TO ACCOUNTS OWNED BY EMPLOYEES FOR WHICH
20 AN EMPLOYER MAY CLAIM A TAX CREDIT SHALL BE NO MORE THAN \$500
21 PER EMPLOYEE DURING THE TAX YEAR.
22 (d) Proof of MATCHING contribution.--In order to receive the <--
23 tax credit, an employer shall provide the department with proof
24 that the employer has made qualifying MATCHING contributions to <--
25 employee-owned accounts under this article at the time of filing
26 the employer's tax return.
27 (E) PROOF OF EMPLOYEE CONTRIBUTION.--IN A MANNER PRESCRIBED <--
28 BY THE EMPLOYER, AN EMPLOYEE SHALL PROVIDE TO THE EMPLOYER
29 EVIDENCE OF THE TOTAL AMOUNT DEPOSITED INTO THE EMPLOYEE'S
30 ACCOUNT DURING THE PREVIOUS TAX YEAR.

1 Section 1904-J. Carryover, carryback, assignment and pass-
2 through of credit.

3 (a) General rule.--If the amount of the tax credit allowed
4 under this article exceeds the employer's tax liability in the
5 tax year in which the tax credit is approved, the excess tax
6 credit may be carried over to succeeding tax years for a period
7 not to exceed three years to reduce the employer's tax liability
8 during those tax years. The following shall apply:

9 (1) A tax credit that is carried over to succeeding tax
10 years must be applied first to the earliest tax year
11 possible.

12 (2) Any credit remaining after three tax years following
13 the initial approval of a tax credit under this article shall
14 not be refunded or credited to the employer.

15 (b) No carryback or refund.--An employer approved for a tax
16 credit is not entitled to carry back or obtain a refund of all
17 or any portion of an unused tax credit granted to the employer
18 under this article.

19 (c) Pass-through entity.--If an employer is a pass-through
20 entity and has an unused tax credit under section 1903-J, the
21 employer may elect in writing, according to procedures
22 established by the ~~Department of Revenue~~ DEPARTMENT, to transfer <--
23 all or a portion of the credit to shareholders, members or
24 partners in proportion to the share of the entity's distributive
25 income to which the shareholder, member or partner is entitled.

26 The following apply:

27 (1) The same unused tax credit under subsection (b) may
28 not be claimed by:

29 (i) the pass-through entity; and

30 (ii) a shareholder, member or patron of the pass-

1 through entity.

2 (2) A shareholder, member or partner of a pass-through
3 entity to whom a credit is transferred under this subsection
4 shall immediately claim the credit in the taxable year in
5 which the transfer is made. The shareholder, member or
6 partner may not carry forward, carry back, obtain a refund of
7 or sell or assign the credit.

8 Section 1905-J. Departmental duties.

9 ~~(a) Guidelines.~~ The department shall publish guidelines and <--
10 may promulgate regulations necessary for the implementation and
11 administration of this article.

12 ~~(b) Verification of contributions.~~ The department shall <--
13 provide the Department of Revenue with information necessary to
14 verify that an employer applying for a tax credit under this
15 article has made contributions to employees' accounts and the
16 aggregate amount of contributions made.

17 Section 1906-J. Nondiscrimination in MATCHING contributions. <--

18 (a) Accounts owned by employees.--An employee who owns an
19 account shall have equal opportunity to receive a MATCHING <--
20 contribution from the employer.

21 (b) Duty of employers.--If an employer chooses to make
22 MATCHING contributions to employee-owned accounts for the <--
23 purposes of claiming the tax credit, the employer shall make
24 equal MATCHING contributions during the tax year to any employee <--
25 that either owns an account or chooses to open an account while
26 employed by the employer.

27 (c) Rights of employees.--An employee who owns an account
28 may voluntarily opt out of an employer MATCHING contribution <--
29 benefit during any tax year. An employee who opts out of a
30 MATCHING contribution benefit from the employer during one tax <--

1 year may elect to receive the MATCHING contribution benefit <--
2 during another succeeding tax year.

3 Section 1907-J. Report to General Assembly.

4 (a) Annual report.--No later than July 1, 2024, and each
5 July 1 thereafter, the department shall submit a report to the
6 General Assembly indicating the effectiveness of the tax credit
7 under this article.

8 (b) Information required.--The report required under
9 subsection (a) shall include the following information:

10 (1) The number of tax credits approved under this
11 article.

12 (2) The amount of tax credits approved under this
13 article.

14 (3) The number of tax credits denied and the reason for
15 denial.

16 ARTICLE XXIX-I <--

17 TUITION ACCOUNT PROGRAMS

18 SECTION 2901-I. DEFINITIONS.

19 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
20 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
21 CONTEXT CLEARLY INDICATES OTHERWISE:

22 "ACCOUNT." AS DEFINED IN SECTION 302 OF THE ACT OF APRIL 3,
23 1992 (P.L.28, NO.11), KNOWN AS THE TUITION ACCOUNT PROGRAMS AND
24 COLLEGE SAVINGS BOND ACT.

25 "ACCOUNT OWNER." AS DEFINED IN SECTION 302 OF THE TUITION
26 ACCOUNT PROGRAMS AND COLLEGE SAVINGS BOND ACT.

27 "BENEFICIARY." AS DEFINED IN SECTION 302 OF THE TUITION
28 ACCOUNT PROGRAMS AND COLLEGE SAVINGS BOND ACT.

29 "TUITION ACCOUNT PROGRAM CONTRACT." AS DEFINED IN SECTION
30 302 OF THE TUITION ACCOUNT PROGRAMS AND COLLEGE SAVINGS BOND

1 ACT.

2 SECTION 2902-I. FEES.

3 NOTWITHSTANDING SECTION 313(C) OF THE ACT OF APRIL 3, 1992
4 (P.L.28, NO.11), KNOWN AS THE TUITION ACCOUNT PROGRAMS AND
5 COLLEGE SAVINGS BOND ACT, THE TREASURY DEPARTMENT MAY NOT IMPOSE
6 A FEE ON THE TERMINATION OF AN ACCOUNT IF THE TERMINATION WAS A
7 RESULT OF THE DEATH OR DISABILITY OF THE BENEFICIARY.

8 SECTION 2903-I. TAXATION OF PAYMENT.

9 NOTWITHSTANDING SECTION 313(D) OF THE ACT OF APRIL 3, 1992
10 (P.L.28, NO.11), KNOWN AS THE TUITION ACCOUNT PROGRAMS AND
11 COLLEGE SAVINGS BOND ACT, IF A TUITION ACCOUNT PROGRAM CONTRACT
12 IS TERMINATED UNDER SECTION 313(A) OF THE TUITION ACCOUNT
13 PROGRAMS AND COLLEGE SAVINGS BOND ACT, A PAYMENT RECEIVED BY AN
14 ACCOUNT OWNER FROM THE TREASURY DEPARTMENT SHALL NOT BE
15 CONSIDERED IN THE CLASSES OF INCOME UNDER SECTION 303 FOR THE
16 PURPOSE OF COMPUTING THE TAX UNDER ARTICLE III.

17 Section 3. This act shall take effect ~~in 60 days.~~ AS <--

18 FOLLOWS:

19 (1) THE FOLLOWING SHALL TAKE EFFECT IMMEDIATELY:

20 (I) THE AMENDMENT OF SECTION 303(A.7) (2) (I) (B) OF
21 THE ACT.

22 (II) THIS SECTION.

23 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
24 DAYS.