

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 815 Session of
2023INTRODUCED BY BAKER, PHILLIPS-HILL, STEFANO, DUSH, BREWSTER AND
COSTA, JUNE 19, 2023AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
DECEMBER 11, 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 personal income tax, further providing for
 11 imposition of tax and for taxability of estates, trusts and
 12 their beneficiaries; AND, IN CORPORATE NET INCOME TAX, <--
 13 FURTHER PROVIDING FOR MANUFACTURING INNOVATION AND
 14 REINVESTMENT DEDUCTION.

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

17 ~~Section 1. Sections 302 and 305 of the act of March 4, 1971 <--~~
 18 ~~(P.L.6, No.2), known as the Tax Reform Code of 1971, are amended~~
 19 ~~to read:~~

20 SECTION 1. SECTIONS 302, 305 AND 407.7 OF THE ACT OF MARCH <--
 21 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, ARE
 22 AMENDED TO READ:

23 Section 302. Imposition of Tax.--(a) [Every] Except as

1 provided in subsection (c), every resident individual, estate or
2 trust shall be subject to, and shall pay for the privilege of
3 receiving each of the classes of income hereinafter enumerated
4 in section 303, a tax upon each dollar of income received by
5 that resident during that resident's taxable year at the rate of
6 three and seven hundredths per cent.

7 (b) [Every] Except as provided in subsection (c), every
8 nonresident individual, estate or trust shall be subject to, and
9 shall pay for the privilege of receiving each of the classes of
10 income hereinafter enumerated in section 303 from sources within
11 this Commonwealth, a tax upon each dollar of income received by
12 that nonresident during that nonresident's taxable year at the
13 rate of three and seven hundredths per cent.

14 (c) The classes of income under section 303 received by a
15 resident trust, and the classes of income received by a
16 nonresident trust from sources within this Commonwealth, shall
17 be taxable to the grantor of the trust or another person to the
18 extent the grantor or other person is treated as the owner of
19 the trust under sections 671, 672, 673, 674, 675, 676, 677, 678
20 and 679 of the Internal Revenue Code of 1986 (Public Law 99-514,
21 26 U.S.C. § 1 et seq.), as amended, whether or not such income
22 is distributed or distributable to the beneficiaries of the
23 trust or accumulated.

24 Section 305. Taxability of Estates, Trusts and Their
25 Beneficiaries.--[The] (a) Except as provided in subsection (b),
26 the income of a beneficiary of an estate or trust in respect of
27 such estate or trust shall consist of that part of the income or
28 gains received by the estate or trust for its taxable year
29 ending within or with the beneficiary's taxable year which,
30 under the governing instrument and applicable State law, is

1 required to be distributed currently or is in fact paid or
2 credited to said beneficiary. The income or gains of the estate
3 or trust, if any, taxable to such estate or trust shall consist
4 of the income or gains received by it which has not been
5 distributed or credited to its beneficiaries.

6 (b) Subsection (a) shall not apply to the extent the grantor
7 or another person is taxable on the income of the trust under
8 section 302(c).

9 ~~Section 2. The amendment of sections 302 and 305 of the act <--~~
10 ~~shall apply to tax years beginning on or after January 1-~~
11 ~~following the effective date of this section.~~

12 ~~Section 3. This act shall take effect in 60 days.~~

13 SECTION 407.7. MANUFACTURING INNOVATION AND REINVESTMENT <--

14 DEDUCTION.--(A) IN ORDER TO BE ELIGIBLE TO RECEIVE A
15 MANUFACTURING INNOVATION AND REINVESTMENT DEDUCTION, A TAXPAYER
16 MUST DEMONSTRATE TO THE DEPARTMENT A PRIVATE CAPITAL INVESTMENT
17 IN EXCESS OF [SIXTY MILLION DOLLARS (\$60,000,000)] FIFTY MILLION
18 DOLLARS (\$50,000,000) FOR THE CREATION OF NEW OR REFURBISHED
19 MANUFACTURING CAPACITY WITHIN [THREE YEARS OF A DESIGNATED START
20 DATE.] THE APPLICABLE TIME PERIOD SPECIFIED IN SUBSECTION (B).
21 THE DEPARTMENT'S CALCULATION OF ELIGIBLE EXPENSES FOR A
22 QUALIFIED MANUFACTURING INNOVATION AND REINVESTMENT DEDUCTION
23 SHALL INCLUDE PAYMENTS MADE IN ADVANCE OF THE START DATE OF A
24 PROJECT IF THE PAYMENTS ARE MADE FOR THE PURCHASE OF, OR PARTIAL
25 PAYMENT FOR, NEW EQUIPMENT FOR THE PROJECT THAT EXCEEDS ONE
26 MILLION DOLLARS (\$1,000,000) IN VALUE.

27 (B) (1) A TAXPAYER MUST ADVISE THE DEPARTMENT IN ADVANCE OF
28 THE START DATE OF ANY PROJECT FOR WHICH THE TAXPAYER MAY SEEK A
29 QUALIFIED MANUFACTURING INNOVATION AND REINVESTMENT DEDUCTION. A
30 TAXPAYER MUST ATTEST THE TAXPAYER'S INTENT TO MEET THE

1 ELIGIBILITY CRITERIA AND PROVIDE RELEVANT INFORMATION PERTINENT
2 TO THE PROJECT'S SIZE AND SCOPE IN A MANNER AS DETERMINED BY THE
3 DEPARTMENT.

4 (2) FOR A PRIVATE CAPITAL INVESTMENT OF LESS THAN OR EQUAL
5 TO ONE HUNDRED FIFTY MILLION DOLLARS (\$150,000,000), THE
6 FOLLOWING SHALL APPLY:

7 (I) THE PROJECT MUST BE COMPLETED WITHIN THREE YEARS OF THE
8 PROJECT'S START DATE.

9 (II) WITHIN FIVE YEARS OF [A] THE PROJECT'S START DATE, [A]
10 THE TAXPAYER MUST COMPLETE TO THE DEPARTMENT'S SATISFACTION AN
11 APPLICATION ON A FORM AND IN A MANNER AS DETERMINED BY THE
12 DEPARTMENT TO ATTEST THAT THE PROJECT HAS BEEN COMPLETED AND THE
13 ELIGIBILITY CRITERIA HAS BEEN SATISFIED.

14 (3) FOR A PRIVATE CAPITAL INVESTMENT OF MORE THAN ONE
15 HUNDRED FIFTY MILLION ONE DOLLARS (\$150,000,001) AND LESS THAN
16 TWO HUNDRED FIFTY MILLION DOLLARS (\$250,000,000), THE FOLLOWING
17 SHALL APPLY:

18 (I) THE PROJECT MUST BE COMPLETED WITHIN FIVE YEARS OF THE
19 PROJECT'S START DATE.

20 (II) WITHIN SEVEN YEARS OF THE PROJECT'S START DATE, THE
21 TAXPAYER MUST COMPLETE TO THE DEPARTMENT'S SATISFACTION AN
22 APPLICATION ON A FORM AND IN A MANNER AS DETERMINED BY THE
23 DEPARTMENT TO ATTEST THAT THE PROJECT HAS BEEN COMPLETED AND THE
24 ELIGIBILITY CRITERIA HAS BEEN SATISFIED.

25 (4) FOR A PRIVATE CAPITAL INVESTMENT OF MORE THAN TWO
26 HUNDRED FIFTY MILLION ONE DOLLARS (\$250,000,001) AND LESS THAN
27 THREE HUNDRED FIFTY MILLION DOLLARS (\$350,000,000), THE
28 FOLLOWING SHALL APPLY:

29 (I) THE PROJECT MUST BE COMPLETED WITHIN SEVEN YEARS OF THE
30 PROJECT'S START DATE.

1 (II) WITHIN NINE YEARS OF THE PROJECT'S START DATE, THE
2 TAXPAYER MUST COMPLETE TO THE DEPARTMENT'S SATISFACTION AN
3 APPLICATION ON A FORM AND IN A MANNER AS DETERMINED BY THE
4 DEPARTMENT TO ATTEST THAT THE PROJECT HAS BEEN COMPLETED AND THE
5 ELIGIBILITY CRITERIA HAS BEEN SATISFIED.

6 (5) FOR A PRIVATE CAPITAL INVESTMENT OF MORE THAN THREE
7 HUNDRED FIFTY MILLION ONE DOLLARS (\$350,000,001), THE DEPARTMENT
8 SHALL ESTABLISH THE TIME PERIOD FROM THE PROJECT'S START DATE IN
9 WHICH THE PROJECT MUST BE COMPLETED AND THE TIME PERIOD IN WHICH
10 THE APPLICATION AS DESCRIBED IN PARAGRAPH (4) MUST BE COMPLETED.

11 (C) UPON THE RECEIPT OF THE TAXPAYER'S APPLICATION, THE
12 DEPARTMENT OF REVENUE [MUST] SHALL MAKE A FINDING [THAT] WHETHER
13 THE APPLICANT HAS FILED ALL REQUIRED STATE TAX REPORTS AND
14 RETURNS FOR ALL APPLICABLE TAX YEARS AND PAID ANY BALANCE OF
15 STATE TAX DUE AS DETERMINED AT SETTLEMENT, ASSESSMENT OR
16 DETERMINATION, AND THE DEPARTMENT, THEN IN CONJUNCTION WITH THE
17 DEPARTMENT OF REVENUE, SHALL MAKE AN ELIGIBILITY OR SATISFACTION
18 DETERMINATION WITHIN NINETY DAYS OF SUBMISSION. IF THE
19 DEPARTMENT MAKES A SATISFACTION DETERMINATION, THE DEPARTMENT
20 AND THE TAXPAYER SHALL EXECUTE A SATISFACTION COMMITMENT LETTER
21 CONTAINING THE FOLLOWING:

22 (1) THE NUMBER OF NEW JOBS CREATED AND THEIR CORRESPONDING
23 DESCRIPTION.

24 (2) THE NUMBER OF NEW JOBS CREATED DURING CONSTRUCTION OF
25 THE PROJECT.

26 (3) THE AMOUNT OF PRIVATE CAPITAL INVESTMENT IN THE CREATION
27 OF NEW JOBS.

28 (4) THE INCREASE IN THE ANNUAL TAXABLE PAYROLL ATTRIBUTABLE
29 TO NEW MANUFACTURING JOBS.

30 (5) A DETERMINATION OF THE MAXIMUM ALLOWABLE DEDUCTION

1 AGAINST A TAXPAYER'S QUALIFIED TAX LIABILITY UNDER THIS ARTICLE.

2 (6) ANY OTHER INFORMATION AS THE DEPARTMENT DEEMS
3 APPROPRIATE.

4 (D) (1.1) IF THE PRIVATE CAPITAL INVESTMENT IS IN EXCESS OF
5 SIXTY MILLION DOLLARS (\$60,000,000), BUT NOT MORE THAN ONE
6 HUNDRED MILLION DOLLARS (\$100,000,000), THE MAXIMUM ALLOWABLE
7 DEDUCTION SHALL BE EQUAL TO THIRTY-SEVEN AND ONE-HALF PER CENT
8 OF THE PRIVATE CAPITAL INVESTMENT UTILIZED IN THE CREATION OF
9 NEW OR REFURBISHED MANUFACTURING CAPACITY. A TAXPAYER MAY
10 UTILIZE THE DEDUCTION IN AN AMOUNT NOT TO EXCEED SEVEN AND ONE-
11 HALF PER CENT OF THE PRIVATE CAPITAL INVESTMENT UTILIZED IN THE
12 CREATION OF NEW OR REFURBISHED MANUFACTURING CAPACITY IN ANY ONE
13 YEAR OF THE SUCCEEDING TEN TAX YEARS IMMEDIATELY FOLLOWING THE
14 DEPARTMENT'S SATISFACTION DETERMINATION AND THE EXECUTION OF A
15 SATISFACTION COMMITMENT LETTER, UP TO THE MAXIMUM ALLOWABLE
16 DEDUCTION. THIS PARAGRAPH SHALL ONLY APPLY TO APPLICATIONS MADE
17 PRIOR TO JANUARY 1, 2024.

18 (1.2) IF [THE] A TAXPAYER'S PRIVATE CAPITAL INVESTMENT FOR A
19 PROJECT EXCEEDS [ONE HUNDRED MILLION DOLLARS (\$100,000,000)]
20 FIFTY MILLION DOLLARS (\$50,000,000), THE MAXIMUM ALLOWABLE
21 DEDUCTION SHALL BE EQUAL TO TWENTY-FIVE PER CENT OF THE PRIVATE
22 CAPITAL INVESTMENT UTILIZED IN THE CREATION OF NEW OR
23 REFURBISHED MANUFACTURING CAPACITY. A TAXPAYER MAY UTILIZE THE
24 DEDUCTION IN AN AMOUNT NOT TO EXCEED FIVE PER CENT OF THE
25 PRIVATE CAPITAL INVESTMENT UTILIZED IN THE CREATION OF NEW OR
26 REFURBISHED MANUFACTURING CAPACITY IN ANY ONE YEAR [OF THE
27 SUCCEEDING TEN TAX YEARS] DURING A TIME PERIOD EQUAL TO THE TIME
28 PERIOD SPECIFIED IN SECTION 401(3)4(C)(2)(A) FOR THE YEAR
29 IMMEDIATELY FOLLOWING THE DEPARTMENT'S SATISFACTION
30 DETERMINATION AND THE EXECUTION OF A SATISFACTION COMMITMENT

1 LETTER, UP TO THE MAXIMUM ALLOWABLE DEDUCTION.

2 (3) A TAXPAYER CANNOT USE THE DEDUCTION TO REDUCE [ITS] THE
3 TAXPAYER'S TAX LIABILITY BY MORE THAN FIFTY PER CENT OF THE TAX
4 LIABILITY UNDER THIS ARTICLE FOR THE TAXABLE YEAR. THE DEDUCTION
5 IS NONTRANSFERABLE AND ANY UNUSED PORTION IN A TAX YEAR SHALL
6 EXPIRE AT THE END OF THE CORRESPONDING TAX YEAR.

7 SECTION 2. THIS ACT SHALL APPLY AS FOLLOWS:

8 (1) THE AMENDMENT OF SECTIONS 302 AND 305 OF THE ACT
9 SHALL APPLY TO TAX YEARS BEGINNING ON OR AFTER JANUARY 1
10 FOLLOWING THE EFFECTIVE DATE OF THIS SECTION.

11 (2) THE AMENDMENT OF SECTION 407.7 OF THE ACT SHALL
12 APPLY TO TAX YEARS BEGINNING AFTER DECEMBER 31, 2023.

13 SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

14 (1) THE AMENDMENT OF SECTIONS 302 AND 305 OF THE ACT
15 SHALL TAKE EFFECT IN 60 DAYS.

16 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
17 IMMEDIATELY.