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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1298 Session of  
2015

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INTRODUCED BY SANTARSIERO, MURT AND COHEN, JUNE 12, 2015

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REFERRED TO COMMITTEE ON FINANCE, JUNE 12, 2015

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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 a commuter and commerce toll tax  
11 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 XVII-J

18 COMMUTER AND COMMERCE TOLL TAX CREDIT

19 Section 1701-J. Scope of article.

20 This article relates to the commuter and commerce toll tax  
21 credits.

22 Section 1702-J. Definitions.

23 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Department." The Department of Revenue of the Commonwealth.

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

5 (1) A partnership, limited partnership, limited  
6 liability company, business trust or other unincorporated  
7 entity that for Federal income tax purposes is taxable as a  
8 partnership.

9 (2) A Pennsylvania S corporation.

10 "Qualified tax liability." For a taxpayer who is an  
11 individual, taxes imposed under Article III and for all other  
12 taxpayers, taxes imposed under Articles III, IV and VI. The term  
13 shall include the liability for taxes imposed under Article III  
14 on a shareholder of a pass-through entity.

15 "Qualified toll expense." Any remuneration paid through the  
16 use of an E-ZPass transponder for access and use of the  
17 Pennsylvania Turnpike and all toll bridges operated under the  
18 Delaware River Joint Toll Bridge Commission and the Delaware  
19 River Port Authority of Pennsylvania and New Jersey.

20 "Tax credit." The Commuter and Commerce Toll Tax Credit  
21 authorized under this article.

22 "Taxpayer." A Pennsylvania-based entity or individual  
23 Pennsylvania resident subject to tax under Article III, IV or  
24 VI. The term shall include the shareholder, owner or member of a  
25 pass-through entity that receives a tax credit.

26 Section 1703-J. Credit for qualified toll expense.

27 (a) Application.--A taxpayer that incurs a qualified toll  
28 expense in a taxable year may apply for a tax credit as provided  
29 under this article. By September 15 of each year, a taxpayer  
30 must submit an application to the department for a qualified

1 toll expense incurred in the taxable year that ended in the  
2 prior calendar year.

3 (b) Receipt.--A taxpayer that is qualified under subsection  
4 (a) shall receive a tax credit for the taxable year in the  
5 amount of 50%, not to exceed \$500, of the taxpayer's total  
6 qualified toll expense for the taxable year.

7 (c) Notification.--By December 15 of the calendar year  
8 following the close of the taxable year during which the  
9 qualified toll expense was incurred, the department shall notify  
10 the taxpayer of the amount of the taxpayer's tax credit approved  
11 by the department.

12 Section 1704-J. Carryover, carryback, refund and assignment of  
13 credit.

14 (a) Carryover.--If the taxpayer cannot use the entire amount  
15 of the tax credit for the taxable year in which the tax credit  
16 is first approved, the excess may be carried over succeeding  
17 taxable years and used as a credit against the qualified tax  
18 liability of the taxpayer for those taxable years. Each time  
19 that the tax credit is carried over to a succeeding taxable  
20 year, it is to be reduced by the amount that was used as a  
21 credit during the immediately preceding taxable year. The tax  
22 credit provided by this article may be carried over and applied  
23 to succeeding taxable years for no more than 15 taxable years  
24 following the first taxable year for which the taxpayer was  
25 entitled to claim the credit.

26 (b) Application of tax credit.--A tax credit approved by the  
27 department for a qualified toll expense in a taxable year first  
28 shall be applied against the taxpayer's qualified tax liability  
29 for the current taxable year as of the date on which the credit  
30 was approved before the tax credit is applied against any tax

1 liability under subsection (a).

2 (c) Carryback or refund.--A taxpayer shall not be entitled  
3 to carry back or obtain a refund of an unused tax credit.

4 Section 1705-J. Limitation on credits.

5 (a) Total amount.--The total amount of tax credits approved  
6 by the department may not be limited in any fiscal year.

7 (b) Allocation.--Tax credits to each taxpayer under this  
8 article may not exceed \$500 annually.

9 Section 1706-J. Shareholder, owner or member pass-through.

10 (a) Application to Pennsylvania S corporations.--If a  
11 Pennsylvania S corporation does not have an eligible tax  
12 liability against which the tax credit may be applied, a  
13 shareholder of the Pennsylvania S corporation shall be entitled  
14 to a tax credit equal to the tax credit determined for the  
15 Pennsylvania S corporation for the taxable year multiplied by  
16 the percentage of the Pennsylvania S corporation's distributive  
17 income to which the shareholder is entitled.

18 (b) Other applications.--If a pass-through entity other than  
19 a Pennsylvania S corporation does not have an eligible tax  
20 liability against which the tax credit may be applied, an owner  
21 or member of the pass-through entity shall be entitled to a tax  
22 credit equal to the tax credit determined for the pass-through  
23 entity for the taxable year multiplied by the percentage of the  
24 pass-through entity's distributive income to which the owner or  
25 member is entitled.

26 (c) Additional credit.--The credit provided under subsection  
27 (a) or (b) shall be in addition to any tax credit to which a  
28 shareholder, owner or member of a pass-through entity is  
29 otherwise entitled under this article, except that a pass-  
30 through entity and a shareholder, owner or member of a pass-

1 through entity may not claim a credit under this article for the  
2 same qualified toll expense.

3 Section 1707-J. Regulations.

4 The department shall promulgate regulations necessary for the  
5 implementation and administration of this article.

6 Section 2. The addition of Article XVII-J of the act shall  
7 apply to taxable years beginning after December 31, 2015.

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