

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 204 Session of 2015

INTRODUCED BY MURT, BOBACK, D. COSTA, DEASY, GINGRICH, GODSHALL, HARKINS, KOTIK, LONGIETTI, MILLARD, READSHAW, SCHLOSSBERG, GIBBONS, KIRKLAND AND BURNS, JANUARY 23, 2015

AS REPORTED FROM COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 5, 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 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:

ARTICLE XIX-D

TOURISM MARKETING AND

PROMOTION TAX CREDIT

20 Section 1901-D. Definitions.

21 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 "Commission." The Pennsylvania Tourism Commission  
4 established by law. OR A NONPROFIT ENTITY DESIGNATED BY THE <--  
5 GOVERNOR THAT IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION  
6 501(C) (3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-  
7 514, 26 U.S.C. § 1 ET SEQ.).

8 "Contribution." A donation of cash, personal property, in-  
9 kind contributions or tourism marketing and promotion services,  
10 the value of which is determined by the department in <--  
11 cooperation with the commission.

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

13 "Pass-through entity." A partnership or small corporation as <--  
14 defined under section 301(n.0) OR A PENNSYLVANIA S CORPORATION <--  
15 AS DEFINED UNDER SECTION 301(N.1) and (s.2).

16 "Qualified tax liability." The liability for taxes imposed  
17 under Article III, IV or VI. The term includes the liability for  
18 taxes imposed under Article III on a shareholder of a  
19 Pennsylvania S corporation. THE TERM SHALL NOT INCLUDE ANY TAX <--  
20 WITHHELD BY AN EMPLOYER FROM AN EMPLOYEE UNDER ARTICLE III.

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

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

27 Section 1902-D. Tax credit.

28 (a) Eligibility.--A taxpayer shall be eligible for THE <--  
29 COMMISSION MAY AWARD a tax credit for contributions made to and  
30 accepted by the commission or a nonprofit entity established by <--

1 ~~the commission that is exempt from Federal taxation under~~  
2 ~~section 501(c)(3) of the Internal Revenue Code of 1986 (Public~~  
3 ~~Law 99-514, 26 U.S.C. § 1 et seq.). The commission shall, BY~~ <--  
4 ~~NOVEMBER 1 OF THE PROGRAM YEAR, notify the department in writing~~ <--  
5 ~~of the acceptance of a contribution, including the name of the~~  
6 ~~donor, the amount or value of the contribution and the type of~~  
7 ~~the contribution. THE FOLLOWING:~~ <--

8 (1) THE DEPARTMENT OF THE AMOUNT OF THE AWARD UP TO THE  
9 CAPPED AMOUNT, INCLUDING:

10 (I) THE NAME OF EACH DONOR;

11 (II) THE FEDERAL ENTITY IDENTIFICATION NUMBER OF  
12 EACH DONOR; AND

13 (III) THE VALUE OF EACH CONTRIBUTION.

14 (2) The taxpayer of the award.

15 (b) Amount of tax credits.--The amount of the tax credit for  
16 the taxable year shall be ~~100%~~ 55% of the value of contributions <--  
17 made to the commission or the nonprofit entity under subsection  
18 (a). ~~The amount of the tax credit shall not exceed the total~~ <--  
19 ~~qualified tax liability of the taxpayer for the taxable year.~~

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

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

25 ~~(e) Application for credits. A taxpayer must apply to the~~  
26 ~~department for a tax credit.~~

27 (D) TAX LIABILITY.--CREDITS AWARDED BY THE COMMISSION UNDER <--  
28 THIS SECTION MAY BE UTILIZED AGAINST TAX LIABILITIES INCURRED IN  
29 THE TAX YEAR IN WHICH THE CONTRIBUTION IS MADE.

30 Section 1903-D. Tourism marketing and promotion tax credits.

1 A taxpayer may claim a tax credit against the qualified tax  
2 liability of the taxpayer.

3 Section 1904-D. Carryover, carryback, refund and assignment of  
4 tax credit.

5 (a) General rule.--If the taxpayer cannot use the entire  
6 amount of the tax credit for the taxable year in which the tax  
7 credit is first approved, the excess may be carried over to  
8 succeeding taxable years and used as a credit against the  
9 qualified tax liability of the taxpayer for those taxable years.  
10 Each time the tax credit is carried over to a succeeding taxable  
11 year, it shall be reduced by the amount that was used as a  
12 credit during the immediately preceding taxable year. The tax  
13 credit provided by this article may be carried over and applied  
14 to succeeding taxable years for not more than three taxable  
15 years following the first taxable year for which the taxpayer  
16 was entitled to claim the credit.

17 (b) Application.--A tax credit approved by the department in  
18 a taxable year first shall be applied against the taxpayer's  
19 qualified tax liability for the current taxable year as of the  
20 date on which the credit was approved before the tax credit can  
21 be applied against any tax liability under subsection (a). A  
22 taxpayer may not ~~carry forward,~~ carry back, obtain a refund of <--  
23 or sell or assign the credit.

24 Section 1905-D. Pass-through entity.

25 (a) General rule.--If a pass-through entity has any unused  
26 tax credit under section 1902-D, it may elect in writing,  
27 according to procedures established by the department, to  
28 transfer all or a portion of the tax credit to shareholders,  
29 members or partners in proportion to the share of the entity's  
30 distributive income to which the shareholder, member or partner

1 is entitled.

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

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

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

12 The total amount of tax credits approved under this article  
13 shall not be more than \$15,000,000 in a fiscal year.

14 Section 1907-D. Report to General Assembly.

15 The Secretary of Revenue COMMISSION shall submit an annual <--  
16 report to the General Assembly indicating the effectiveness of  
17 the tax credit not later than June 30 following the year in  
18 which the tax credits were approved. The report shall include  
19 the names of all taxpayers utilizing AWARDED the tax credit as <--  
20 of the date of the report and the amount of tax credits approved  
21 and used by each taxpayer. Notwithstanding any law providing for <--  
22 the confidentiality of tax records, the information contained in  
23 the report shall be public information.

24 Section 1908-D. Regulations.

25 The department ~~shall~~ MAY promulgate regulations OR GUIDELINES <--  
26 necessary for the implementation and administration of this  
27 article.

28 SECTION 1909-D. EXPIRATION. <--

29 THIS ARTICLE SHALL EXPIRE JULY 1, 2020.

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