

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 478 Session of
2019

INTRODUCED BY VOGEL, J. WARD, STREET, GORDNER, SCHWANK, FOLMER,
YAW, KILLION, LANGERHOLC, K. WARD, BROOKS, REGAN, BAKER,
STEFANO, BLAKE AND AUMENT, MARCH 26, 2019

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, JUNE 11, 2019

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 beginning farmer tax credit.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
14 the Tax Reform Code of 1971, is amended by adding an article to
15 read:

16 ARTICLE XVIII-H

17 TAX CREDITS RELATING TO BEGINNING FARMERS

18 Section 1801-H. Scope of article.

19 This article relates to the tax credits to owners of
20 agricultural assets and to beginning farmers.

1 Section 1802-H. Definitions.

2 The following words and phrases when used in this article
3 shall have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 "Agricultural assets." Agricultural land, livestock,
6 facilities, buildings and machinery used for farming.

7 "AGRICULTURAL COMMODITY." AGRICULTURAL, AQUACULTURAL, <--
8 HORTICULTURAL, VITICULTURAL AND DAIRY PRODUCTS, LIVESTOCK AND
9 THE PRODUCTS THEREOF, RANCH-RAISED FURBEARING ANIMALS AND THE
10 PRODUCTS THEREOF, THE PRODUCTS OF POULTRY AND BEE RAISING,
11 FORESTRY AND FORESTRY PRODUCTS AND ANY AND ALL PRODUCTS RAISED
12 OR PRODUCED ON FARMS INTENDED FOR HUMAN CONSUMPTION AND THE
13 PROCESSED OR MANUFACTURED PRODUCTS THEREOF INTENDED FOR HUMAN
14 CONSUMPTION, TRANSPORTED OR INTENDED TO BE TRANSPORTED IN
15 COMMERCE.

16 "Beginning farmer." An individual who:

17 ~~(1)~~ Is a resident of this Commonwealth. <--

18 ~~(2)~~ (1) Is seeking entry, or has entered within the last <--
19 10 years, into farming.

20 ~~(3)~~ (2) Intends to engage in farming on land situate in <--
21 this Commonwealth.

22 ~~(4)~~ (3) Is not and whose spouse is not a family member <--
23 of a partner, member, shareholder or trustee of the owner of
24 agricultural assets from whom the individual seeks to
25 purchase or rent agricultural assets.

26 ~~(5)~~ (4) Meets the following eligibility requirements as <--
27 determined by the department, IN CONSULTATION WITH THE <--

28 DEPARTMENT OF AGRICULTURE:

29 (i) Has a net worth that does not exceed \$800,000,
30 subject to annual adjustment by the department in an

1 amount equivalent to any percentage increase in the
2 Consumer Price Index for All Urban Consumers for the
3 Pennsylvania, New Jersey, Delaware and Maryland area, for
4 the most recent 12-month period for which figures have
5 been officially reported by the United States Department
6 of Labor, Bureau of Labor Statistics, immediately prior
7 to the date the adjustment is due to take effect.

8 (ii) Provides the majority of the daily physical
9 labor or management of a farm.

10 (iii) Has, by the judgment of the department, <--
11 adequate farming experience or demonstrates knowledge in
12 the type of farming for which the beginning farmer seeks
13 assistance from the department.

14 (iv) Demonstrates to the department a profit <--
15 potential by submitting projected earnings statements.

16 (v) Asserts to the satisfaction of the department
17 that farming will be a significant source of income for
18 the beginning farmer.

19 (vi) Agrees to notify the department if the
20 beginning farmer no longer meets the eligibility
21 requirements within the three-year certification period,
22 in which case the beginning farmer is no longer eligible
23 for tax credits.

24 (vii) Is not engaged in farming by means of a joint
25 business venture.

26 (viii) Has other qualifications as specified by the
27 department.

28 The term does not include the spouse or a business partner of
29 the individual.

30 "Department." The Department of Community and Economic

1 Development of the Commonwealth.

2 "Family member." A family member within the meaning of
3 section 267(c)(4) of the Internal Revenue Code of 1986 (Public
4 Law 99-514, 26 U.S.C. § 267(c)(4)). The term does not include
5 the spouse of a beginning farmer.

6 "Farm." Real property on which farming occurs.

7 "Farm product." Plants and animals useful to humans and <--
8 includes forage and sod crops, oilseeds, grain and feed crops,
9 dairy and dairy products, poultry and poultry products,
10 livestock, fruits and vegetables.

11 "Farming." The active use, management and operation of real
12 and personal property for the production of a farm product AN <--
13 AGRICULTURAL COMMODITY.

14 "Lease." A written agreement between parties for the lease
15 of real property on which farming occurs.

16 "Owner of agricultural assets." An individual, trust or
17 pass-through entity that is the owner in fee of agricultural
18 land or has legal title to any other agricultural asset. The
19 term does not include an equipment dealer, livestock dealer or
20 comparable entity that is engaged in the business of selling
21 agricultural assets for profit and that is not engaged in
22 farming as its primary business activity.

23 "Tax credit." A tax credit established by this article.
24 Section 1803-H. Beginning farmer management tax credit.

25 (a) General rule.--An owner of agricultural assets may take
26 a credit against the tax due under Article III for the sale or
27 rental of agricultural assets to a beginning farmer in the
28 amount approved by the department. An owner of agricultural
29 assets is eligible for allocation of a tax credit equal to:

30 (1) five percent of the lesser of the sale price or the

1 fair market value of the agricultural asset, up to a maximum
2 of \$32,000; or

3 (2) ten percent of the gross rental income in each of
4 the first, second and third years of a rental agreement, up
5 to a maximum of \$7,000 per year.

6 (b) Application.--The tax credit may be claimed only after
7 approval and certification by the department and is limited to
8 the amount stated on the certificate issued under section 1804-
9 H. An owner of agricultural assets must apply to the department
10 for approval of a tax credit, in a form and manner prescribed by
11 the department.

12 (c) Termination of rental agreement.--

13 (1) An owner of agricultural assets or beginning farmer
14 may terminate a rental agreement for reasonable cause upon
15 approval of the department.

16 (2) If a rental agreement is terminated without the
17 fault of the owner of agricultural assets, the tax credits
18 shall not be retroactively disallowed.

19 (3) In determining reasonable cause, the department
20 shall consider which party was at fault in the termination of
21 the agreement.

22 (4) If the department determines the owner of
23 agricultural assets did not have reasonable cause, the owner
24 of agricultural assets must repay all tax credits received as
25 a result of the rental agreement to the Secretary of Revenue <--
26 COMMONWEALTH. The repayment is additional income tax for the <--
27 taxable year in which the department makes its decision or
28 when a final adjudication under section 1805-H is made,
29 whichever is later.

30 (d) Duration of tax credit.--The credit is limited to the

1 liability for tax as computed under Article III for the taxable
2 year. The tax credit may not be carried over or assigned.

3 Section 1804-H. Approval of tax credit.

4 (a) General rule.--The tax credit may be claimed only after
5 approval and certification by the department. The department
6 shall review the application of a tax credit in consultation
7 with the Department of Agriculture.

8 (b) Tax clearance.--Before an application is approved, the
9 Department of Revenue must find that the applicant has filed all
10 required State tax reports and returns for all applicable
11 taxable years and paid any balance of State tax due as
12 determined at settlement or assessment or as otherwise
13 determined by the Department of Revenue.

14 Section 1805-H. Departmental duties.

15 (a) Duties.--The department shall:

16 (1) Share information with the Secretary of Revenue to
17 the extent necessary to administer provisions under this
18 article and Article III.

19 (2) Annually notify the Secretary of Revenue of approval
20 and certification or recertification of beginning farmers and
21 owners of agricultural assets under this section. For tax
22 credits under section 1803-H, the notification must include
23 the amount of tax credit approved by the department and
24 stated on the tax credit certificate.

25 (b) Validity of certification.--The certification of a
26 beginning farmer or an owner of agricultural assets under this
27 section is valid for the year of the certification and the two
28 following years, after which time the beginning farmer or owner
29 of agricultural assets must apply to the department for
30 recertification.

1 (c) Limitation on amount.--

2 (1) For tax credits for owners of agricultural assets
3 allowed under section 1803-H, the department may allocate no
4 more than \$5,000,000 for the taxable year beginning after
5 December 31, 2019, and may allocate no more than \$6,000,000
6 for the taxable years beginning after December 31, 2020.

7 (2) The department shall allocate tax credits on a
8 first-come, first-served basis beginning on January 1 of each
9 year, except that recertifications for the second and third
10 years of tax credits under section 1803-H(a) (1) and (2) have
11 first priority. Any amount authorized but not allocated in
12 any taxable year does not cancel and is added to the
13 allocation for the next taxable year.

14 Section 1806-H. Report.

15 (a) Duty to report.--No later than February 1, 2025, the
16 department, in consultation with the Secretary of Revenue, shall
17 provide a report to the General Assembly on the tax credits
18 issued in tax years beginning after December 31, 2019.

19 (b) Contents of report.--

20 (1) The report must include background information on
21 beginning farmers and any other information the department
22 finds relevant to evaluating the effect of the tax credits on
23 increasing opportunities for and the number of beginning
24 farmers.

25 (2) For tax credits issued under section 1803-H(a), the
26 report shall include:

27 (i) The number and amount of tax credits issued
28 under each paragraph.

29 (ii) The geographic distribution of tax credits
30 issued under each paragraph.

1 (iii) The type of agricultural assets for which tax
2 credits were issued under section 1803-H(a)(1).

3 (iv) The number and geographic distribution of
4 beginning farmers whose purchase or rental of assets
5 resulted in tax credits for the seller or owner of the
6 asset.

7 (v) The number and amount of tax credits disallowed
8 under section 1803-H(d).

9 (vi) Data on the number of beginning farmers by
10 geographic region in the tax years covered in the report.

11 (vii) The number and amount of tax credit
12 applications that exceeded the allocation available in
13 each year.

14 (3) For tax credits issued under section 1804-H, the
15 report shall include:

16 (i) The number and amount of tax credits issued.

17 (ii) The geographic distribution of tax credits.

18 (iii) A description of the approval procedure for
19 financial management programs not on the list maintained
20 by the department as provided in section 1804-H(a).

21 Section 1807-H. Expiration.

22 This article shall expire for taxable years beginning after
23 December 31, 2029.

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