

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 RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 25, 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:

ARTICLE XVIII-H

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 WHO SELL OR RENT AGRICULTURAL ASSETS to <--

1 beginning farmers.

2 Section 1802-H. Definitions.

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

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

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

17 "Beginning farmer." An individual who:

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

19 (2) (1) Is seeking entry, or has entered within the last <--
20 10 years, into farming.

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

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

27 (5) (4) Meets the following eligibility requirements as <--
28 determined by the department, IN CONSULTATION WITH THE <--
29 DEPARTMENT OF AGRICULTURE:

30 (i) Has a net worth that does not exceed \$800,000, <--

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

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

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

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

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

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

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

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

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

1 "AGRICULTURAL PRODUCTION." AS DEFINED IN SECTION 3 OF THE <--
2 ACT OF JUNE 30, 1981 (P.L.128, NO.43), KNOWN AS THE AGRICULTURAL
3 AREA SECURITY LAW.

4 "BEGINNING FARMER." A PERSON WHO:

5 (1) HAS DEMONSTRATED EXPERIENCE IN THE AGRICULTURE
6 INDUSTRY OR RELATED FIELD OR HAS TRANSFERABLE SKILLS AS
7 DETERMINED BY THE DEPARTMENT.

8 (2) HAS NOT RECEIVED FEDERAL GROSS INCOME FROM
9 AGRICULTURAL PRODUCTION FOR MORE THAN THE 10 MOST RECENT
10 TAXABLE YEARS.

11 (3) INTENDS TO ENGAGE IN AGRICULTURAL PRODUCTION WITHIN
12 THE BORDERS OF THIS COMMONWEALTH AND TO PROVIDE THE MAJORITY
13 OF THE LABOR AND MANAGEMENT INVOLVED IN THAT AGRICULTURAL
14 PRODUCTION.

15 (4) HAS OBTAINED WRITTEN CERTIFICATION FROM THE
16 DEPARTMENT CONFIRMING BEGINNING FARMER STATUS.

17 (5) IS NOT, AND WHOSE SPOUSE IS NOT, A PARTNER, MEMBER,
18 SHAREHOLDER OR TRUSTEE OF THE OWNER OF AGRICULTURAL ASSETS
19 FROM WHOM THE PERSON SEEKS TO PURCHASE OR RENT AGRICULTURAL
20 ASSETS.

21 "Department." The Department of Community and Economic
22 Development of the Commonwealth.

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

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

28 ~~"Farm product." Plants and animals useful to humans and~~ <--
29 ~~includes forage and sod crops, oilseeds, grain and feed crops,~~
30 ~~dairy and dairy products, poultry and poultry products,~~

1 ~~livestock, fruits and vegetables.~~

2 "Farming." The active use, management and operation of real
3 and personal property for the production of a farm product AN <--
4 AGRICULTURAL COMMODITY AGRICULTURAL PRODUCTION. <--

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

7 "Owner of agricultural assets." An individual, trust or
8 pass-through entity that is the owner in fee of agricultural
9 land or has legal title to any other agricultural asset. The
10 term does not include an equipment dealer, livestock dealer or
11 comparable entity that is engaged in the business of selling
12 agricultural assets for profit and that is not engaged in
13 farming as its primary business activity.

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

16 (a) General rule.--An owner of agricultural assets may take
17 a credit against the tax due under Article III for the sale or
18 rental of agricultural assets to a beginning farmer in the
19 amount approved by the department. An owner of agricultural
20 assets is eligible for allocation of a tax credit equal to:

21 (1) five percent of the lesser of the sale price or the
22 fair market value of the agricultural asset, up to a maximum
23 of \$32,000; or

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

27 ~~(b) Application. The tax credit may be claimed only after~~ <--

28 (B) APPLICATION.-- <--

29 (1) THE TAX CREDIT MAY BE CLAIMED ONLY AFTER approval
30 and certification by the department and is limited to the

1 amount stated on the certificate issued under section 1804-H. <--
2 An owner of agricultural assets must apply to the department
3 1804-H. <--

4 (2) AN OWNER OF AGRICULTURAL ASSETS MUST APPLY TO THE
5 DEPARTMENT for approval of a tax credit, in a form and manner
6 prescribed by the department. THE APPLICATION SHALL: <--

7 (I) IDENTIFY THE BEGINNING FARMER WHO HAS BEEN
8 CERTIFIED BY THE DEPARTMENT UNDER PARAGRAPH (3) AND TO
9 WHOM THE AGRICULTURAL ASSETS ARE SOLD OR RENTED; AND

10 (II) SPECIFY WHETHER THE BEGINNING FARMER IS A
11 BROTHER, SISTER, ANCESTOR OR LINEAL DESCENDANT OF THE
12 APPLICANT.

13 (3) A PERSON MAY APPLY TO THE DEPARTMENT FOR
14 CERTIFICATION THAT THE PERSON IS A BEGINNING FARMER FOR
15 PURPOSES OF THIS ARTICLE. THE APPLICATION SHALL BE IN A FORM
16 AND MANNER PRESCRIBED BY THE DEPARTMENT AND SHALL REQUIRE
17 THAT THE APPLICANT PROVIDE:

18 (I) PROJECTED EARNINGS STATEMENTS TO DEMONSTRATE THE
19 PROFIT POTENTIAL FOR THE FARMING CONDUCTED BY THE
20 APPLICANT.

21 (II) VERIFICATION THAT THE FARMING CONDUCTED BY THE
22 APPLICANT WILL BE A SIGNIFICANT SOURCE OF INCOME FOR THE
23 APPLICANT.

24 (III) VERIFICATION THAT THE APPLICANT WILL, IF
25 CERTIFIED AS A BEGINNING FARMER BY THE DEPARTMENT, NOTIFY
26 THE DEPARTMENT IF THE FARMER NO LONGER MEETS THE
27 CERTIFICATION AND ELIGIBILITY REQUIREMENTS WITHIN THE
28 THREE-YEAR CERTIFICATION PERIOD, IN WHICH CASE
29 ELIGIBILITY FOR TAX CREDITS ENDS.

30 (IV) VERIFICATION THAT THE APPLICANT IS NOT ENGAGED

1 IN FARMING BY MEANS OF A JOINT BUSINESS VENTURE.

2 (V) VERIFICATION AND DOCUMENTATION AS NECESSARY TO
3 MEET OTHER ELIGIBILITY REQUIREMENTS AS MAY BE ESTABLISHED
4 BY THE DEPARTMENT.

5 (c) Termination of rental agreement.--

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

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

12 (3) In determining reasonable cause, the department
13 shall consider which party was at fault in the termination of
14 the agreement.

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

23 (d) Duration of tax credit.--The credit is limited to the
24 liability for tax as computed under Article III for the taxable
25 year. The tax credit may not be carried over or assigned. SOLD, <--
26 PASSED THROUGH, CARRIED FORWARD OR REFUNDED. NO CREDITS GRANTED
27 UNDER THIS SECTION SHALL BE APPLIED AGAINST ANY TAX WITHHELD BY
28 AN EMPLOYER FROM AN EMPLOYEE UNDER ARTICLE III.

29 Section 1804-H. Approval of tax credit.

30 (a) General rule.--The tax credit may be claimed only after

1 approval and certification by the department. The department
2 shall review the application of a tax credit in consultation
3 with the Department of Agriculture.

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

10 Section 1805-H. Departmental duties.

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

12 (1) Share information with the Secretary of Revenue to
13 the extent necessary to administer provisions under this
14 article and Article III.

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

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

27 (c) Limitation on amount.--

28 (1) For tax credits for owners of agricultural assets
29 allowed under section 1803-H, the department may allocate no
30 more than \$5,000,000 for the taxable year beginning after

1 December 31, 2019, and may allocate no more than \$6,000,000
2 for the taxable years beginning after December 31, 2020.

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

10 Section 1806-H. Report.

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

15 (b) Contents of report.--

16 (1) The report must include background information on
17 beginning farmers and any other information the department
18 finds relevant to evaluating the effect of the tax credits on
19 increasing opportunities for and the number of beginning
20 farmers.

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

23 (i) The number and amount of tax credits issued
24 under each paragraph.

25 (ii) The geographic distribution of tax credits
26 issued under each paragraph.

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

29 (iv) The number and geographic distribution of
30 beginning farmers whose purchase or rental of assets

1 resulted in tax credits for the seller or owner of the
2 asset.

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

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

7 (vii) The number and amount of tax credit
8 applications that exceeded the allocation available in
9 each year.

10 ~~(3) For tax credits issued under section 1804 H, the~~ <--
11 ~~report shall include:~~

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

13 ~~(ii) The geographic distribution of tax credits.~~

14 ~~(iii) A description of the approval procedure for~~
15 ~~financial management programs not on the list maintained~~
16 ~~by the department as provided in section 1804 H(a).~~

17 Section 1807-H. Expiration.

18 This article shall expire for taxable years beginning after
19 December 31, 2029.

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