

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1216 Session of  
2013

INTRODUCED BY STERN, HESS, BOBACK, CAUSER, LONGIETTI, KORTZ,  
MOUL, FLECK, O'BRIEN, READSHAW, KAUFFMAN, HALUSKA, GROVE,  
SWANGER, MILLARD, HARKINS, SAINATO, GINGRICH, CLYMER, MURT,  
DENLINGER, FABRIZIO, GIBBONS AND FREEMAN, APRIL 17, 2013

REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT,  
APRIL 17, 2013

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:

17 ARTICLE XIX-B

18 TOURISM MARKETING AND

19 PROMOTION TAX CREDIT

20 Section 1901-B. 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.

5 "Contribution." A donation of cash, personal property, in-  
6 kind contributions or tourism marketing and promotion services,  
7 the value of which is determined by the Department of Revenue in  
8 cooperation with the Pennsylvania Tourism Commission.

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

10 "Pass-through entity." A partnership or Pennsylvania S  
11 corporation as defined under section 301(n.0) and (s.2).

12 "Qualified tax liability." The liability for taxes imposed  
13 under Article III, IV or VI. The term includes the liability for  
14 taxes imposed under Article III on a shareholder of a  
15 Pennsylvania S corporation.

16 "Tax credit." The tourism marketing and promotion tax credit  
17 established under this article.

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

22 Section 1902-B. Tax credit.

23 (a) Eligibility.--A taxpayer shall be eligible for a tax  
24 credit for contributions made to and accepted by the commission  
25 or a nonprofit entity established by the commission that is  
26 exempt from Federal taxation under section 501(c)(3) of the  
27 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1  
28 et seq.). The commission shall notify the department in writing  
29 of the acceptance of a contribution, including the name of the  
30 donor, the amount or value of the contribution and the type of

1 the contribution.

2 (b) Amount of tax credits.--The amount of the tax credit for  
3 the taxable year shall be 100% of the value of contributions  
4 made to the commission or the nonprofit entity under subsection  
5 (a). The amount of the tax credit shall not exceed the total  
6 qualified tax liability of the taxpayer for the taxable year.

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

10 (d) Availability of tax credits.--Tax credits shall be made  
11 available by the department on a first-come-first-served basis.

12 (e) Application for credits.--A taxpayer must apply to the  
13 department for a tax credit.

14 Section 1903-B. Tourism marketing and promotion tax credits.

15 A taxpayer may claim a tax credit against the qualified tax  
16 liability of the taxpayer.

17 Section 1904-B. Carryover, carryback, refund and assignment of  
18 tax credit.

19 (a) General rule.--If the taxpayer cannot use the entire  
20 amount of the tax credit for the taxable year in which the tax  
21 credit is first approved, the excess may be carried over to  
22 succeeding taxable years and used as a credit against the  
23 qualified tax liability of the taxpayer for those taxable years.  
24 Each time the tax credit is carried over to a succeeding taxable  
25 year, it shall be reduced by the amount that was used as a  
26 credit during the immediately preceding taxable year. The tax  
27 credit provided by this article may be carried over and applied  
28 to succeeding taxable years for not more than three taxable  
29 years following the first taxable year for which the taxpayer  
30 was entitled to claim the credit.

1     (b) Application.--A tax credit approved by the department in  
2     a taxable year first shall be applied against the taxpayer's  
3     qualified tax liability for the current taxable year as of the  
4     date on which the credit was approved before the tax credit can  
5     be applied against any tax liability under subsection (a). A  
6     taxpayer may not carry forward, carry back, obtain a refund of  
7     or sell or assign the credit.

8     Section 1905-B. Pass-through entity.

9     (a) General rule.--If a pass-through entity has any unused  
10    tax credit under section 1902-B, it may elect in writing,  
11    according to procedures established by the department, to  
12    transfer all or a portion of the tax credit to shareholders,  
13    members or partners in proportion to the share of the entity's  
14    distributive income to which the shareholder, member or partner  
15    is entitled.

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

19    (c) Application.--A shareholder, member or partner of a  
20    pass-through entity to whom a tax credit is transferred under  
21    subsection (a) shall immediately claim the tax credit in the  
22    taxable year in which the transfer is made. The shareholder,  
23    member or partner may not carry forward, carry back, obtain a  
24    refund of or sell or assign the tax credit.

25    Section 1906-B. Annual cap on tax credits.

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

28    Section 1907-B. Report to General Assembly.

29    The Secretary of Revenue shall submit an annual report to the  
30    General Assembly indicating the effectiveness of the tax credit

1 not later than June 30 following the year in which the tax  
2 credits were approved. The report shall include the names of all  
3 taxpayers utilizing the tax credit as of the date of the report  
4 and the amount of tax credits approved and used by each  
5 taxpayer. Notwithstanding any law providing for the  
6 confidentiality of tax records, the information contained in the  
7 report shall be public information.

8 Section 1908-B. Regulations.

9 The department shall promulgate regulations necessary for the  
10 implementation and administration of this article.

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