

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 1219 Session of 2023

INTRODUCED BY BRIGGS, FREEMAN, MADDEN, SCHLOSSBERG, SANCHEZ,  
HILL-EVANS, GUENST, GREINER, HANBIDGE, WEBSTER, NEILSON,  
SCOTT, HOGAN, GREEN, PIELLI AND TAKAC, MAY 24, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
OCTOBER 2, 2023

## 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," in corporate net income tax, further providing  
11 for DEFINITIONS, FOR IMPOSITION OF TAX AND FOR manufacturing <--  
12 innovation and reinvestment deduction.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 ~~Section 1. Section 407.7 of the act of March 4, 1971 (P.L.6, <--~~  
16 ~~No.2), known as the Tax Reform Code of 1971, is amended to read:~~

17 SECTION 1. SECTION 401(3)4(C)(1) AND (2) OF THE ACT OF MARCH <--  
18 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, ARE  
19 AMENDED TO READ:

20 SECTION 401. DEFINITIONS.--THE FOLLOWING WORDS, TERMS, AND  
21 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANING  
22 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT

1 CLEARLY INDICATES A DIFFERENT MEANING:

2 \* \* \*

3 (3) "TAXABLE INCOME." \* \* \*

4 4. \* \* \*

5 (C) (1) THE NET LOSS DEDUCTION SHALL BE THE LESSER OF:

6 (A) (I) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2007,  
7 TWO MILLION DOLLARS (\$2,000,000);

8 (II) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006,  
9 THE GREATER OF TWELVE AND ONE-HALF PER CENT OF TAXABLE INCOME AS  
10 DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR  
11 THREE MILLION DOLLARS (\$3,000,000);

12 (III) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2008,  
13 THE GREATER OF FIFTEEN PER CENT OF TAXABLE INCOME AS DETERMINED  
14 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR THREE  
15 MILLION DOLLARS (\$3,000,000);

16 (IV) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2009,  
17 THE GREATER OF TWENTY PER CENT OF TAXABLE INCOME AS DETERMINED  
18 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR THREE  
19 MILLION DOLLARS (\$3,000,000);

20 (V) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2013, THE  
21 GREATER OF TWENTY-FIVE PER CENT OF TAXABLE INCOME AS DETERMINED  
22 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR FOUR MILLION  
23 DOLLARS (\$4,000,000);

24 (VI) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2014,  
25 THE GREATER OF THIRTY PER CENT OF TAXABLE INCOME AS DETERMINED  
26 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR FIVE MILLION  
27 DOLLARS (\$5,000,000);

28 (VII) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2017,  
29 THIRTY-FIVE PER CENT OF TAXABLE INCOME AS DETERMINED UNDER  
30 SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2;

(VIII) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2018,  
FORTY PER CENT OF TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1  
OR, IF APPLICABLE, SUBCLAUSE 2; [OR]

(IX) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2023,  
FIFTY PER CENT OF TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1  
OR, IF APPLICABLE, SUBCLAUSE 2;

(X) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2024,  
SIXTY PER CENT OF TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1  
OR, IF APPLICABLE, SUBCLAUSE 2;

(XI) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2025,  
SEVENTY PER CENT OF TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE  
1 OR, IF APPLICABLE, SUBCLAUSE 2; OR

(XII) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2026,  
EIGHTY PER CENT OF TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE  
1 OR, IF APPLICABLE, SUBCLAUSE 2; OR

(B) THE AMOUNT OF THE NET LOSS OR LOSSES WHICH MAY BE  
CARRIED OVER TO THE TAXABLE YEAR OR TAXABLE INCOME AS DETERMINED  
UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2.

\* \* \*

(2) (A) A NET LOSS FOR A TAXABLE YEAR MAY ONLY BE CARRIED  
OVER PURSUANT TO THE FOLLOWING SCHEDULE:

TAXABLE YEAR	CARRYOVER
1981	1 TAXABLE YEAR
1982	2 TAXABLE YEARS
1983-1987	3 TAXABLE YEARS
1988	2 TAXABLE YEARS PLUS
	1 TAXABLE YEAR
	STARTING WITH THE
	1995 TAXABLE YEAR
1989	1 TAXABLE YEAR PLUS

1		2 TAXABLE YEARS
2		STARTING WITH THE
3		1995 TAXABLE YEAR
4	1990-1993	3 TAXABLE YEARS
5		STARTING WITH THE
6		1995 TAXABLE YEAR
7	1994	1 TAXABLE YEAR
8	1995-1997	10 TAXABLE YEARS
9	1998 AND THEREAFTER	20 TAXABLE YEARS

10 (B) THE EARLIEST NET LOSS SHALL BE CARRIED OVER TO THE  
 11 EARLIEST TAXABLE YEAR TO WHICH IT MAY BE CARRIED UNDER THIS  
 12 SCHEDULE. THE TOTAL NET LOSS DEDUCTION ALLOWED IN ANY TAXABLE  
 13 YEAR SHALL NOT EXCEED:

14 (I) TWO MILLION DOLLARS (\$2,000,000) FOR TAXABLE YEARS  
 15 BEGINNING BEFORE JANUARY 1, 2007.

16 (II) THE GREATER OF TWELVE AND ONE-HALF PER CENT OF THE  
 17 TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1 OR, IF  
 18 APPLICABLE, SUBCLAUSE 2 OR THREE MILLION DOLLARS (\$3,000,000)  
 19 FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006.

20 (III) THE GREATER OF FIFTEEN PER CENT OF THE TAXABLE INCOME  
 21 AS DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2  
 22 OR THREE MILLION DOLLARS (\$3,000,000) FOR TAXABLE YEARS  
 23 BEGINNING AFTER DECEMBER 31, 2008.

24 (IV) THE GREATER OF TWENTY PER CENT OF THE TAXABLE INCOME AS  
 25 DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR  
 26 THREE MILLION DOLLARS (\$3,000,000) FOR TAXABLE YEARS BEGINNING  
 27 AFTER DECEMBER 31, 2009.

28 (V) THE GREATER OF TWENTY-FIVE PER CENT OF TAXABLE INCOME AS  
 29 DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR  
 30 FOUR MILLION DOLLARS (\$4,000,000) FOR TAXABLE YEARS BEGINNING

1 AFTER DECEMBER 31, 2013.

2 (VI) THE GREATER OF THIRTY PER CENT OF TAXABLE INCOME AS  
3 DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR  
4 FIVE MILLION DOLLARS (\$5,000,000) FOR TAXABLE YEARS BEGINNING  
5 AFTER DECEMBER 31, 2014.

6 (VII) THIRTY-FIVE PER CENT OF TAXABLE INCOME AS DETERMINED  
7 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 FOR TAXABLE  
8 YEARS BEGINNING AFTER DECEMBER 31, 2017.

9 (VIII) FORTY PER CENT OF TAXABLE INCOME AS DETERMINED UNDER  
10 SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 FOR TAXABLE YEARS  
11 BEGINNING AFTER DECEMBER 31, 2018.

12 (IX) FIFTY PER CENT OF TAXABLE INCOME AS DETERMINED UNDER  
13 SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 FOR TAXABLE YEARS  
14 BEGINNING AFTER DECEMBER 31, 2023.

15 (X) SIXTY PER CENT OF TAXABLE INCOME AS DETERMINED UNDER  
16 SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 FOR TAXABLE YEARS  
17 BEGINNING AFTER DECEMBER 31, 2024.

18 (XI) SEVENTY PER CENT OF TAXABLE INCOME AS DETERMINED UNDER  
19 SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 FOR TAXABLE YEARS  
20 BEGINNING AFTER DECEMBER 31, 2025.

21 (XII) EIGHTY PER CENT OF TAXABLE INCOME AS DETERMINED UNDER  
22 SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 FOR TAXABLE YEARS  
23 BEGINNING AFTER DECEMBER 31, 2026.

24 \* \* \*

25 SECTION 2. SECTION 402(B) OF THE ACT, AMENDED JULY 8, 2022  
26 (P.L.513, NO.53), IS AMENDED TO READ:

27 SECTION 402. IMPOSITION OF TAX.--\* \* \*

28 (B) THE ANNUAL RATE OF TAX ON CORPORATE NET INCOME IMPOSED  
29 BY SUBSECTION (A) FOR TAXABLE YEARS BEGINNING FOR THE CALENDAR  
30 YEAR OR FISCAL YEAR ON OR AFTER THE DATES SET FORTH SHALL BE AS

2 TAXABLE YEAR  
3 JANUARY 1, 1995,  
4 THROUGH DECEMBER  
5 31, 2022

9.99%

[8.99%]     7.99%

[8.49%]     6.99%

[7.99%]    5.99%

[7.49%]    4.99%

20 [ JANUARY 1, 2027,  
21 THROUGH DECEMBER  
22 31, 2027

6.99%

6.49%

5.99%

5.99%

1 31, 2030

5.49%

2 JANUARY 1, 2031, AND

3 EACH TAXABLE YEAR

4 THEREAFTER

4.99%]

5 \* \* \*

6 SECTION 3. SECTION 407.7 OF THE ACT IS AMENDED TO READ:

7 Section 407.7. Manufacturing Innovation and Reinvestment

8 Deduction.--(a) In order to be eligible to receive a

9 manufacturing innovation and reinvestment deduction, a taxpayer

10 must demonstrate to the department a private capital investment

11 in excess of [sixty million dollars (\$60,000,000)] fifty million

12 dollars (\$50,000,000) for the creation of new or refurbished

13 manufacturing capacity within [three years of a designated start

14 date] the applicable time period specified in subsection (b).

15 (b) (1) A taxpayer must advise the department in advance of  
16 the start date of any project for which the taxpayer may seek a  
17 qualified manufacturing innovation and reinvestment deduction. A  
18 taxpayer must attest the taxpayer's intent to meet the  
19 eligibility criteria and provide relevant information pertinent  
20 to the project's size and scope in a manner as determined by the  
21 department.

22 (2) For a private capital investment of less than or equal  
23 to one hundred fifty million dollars (\$150,000,000), the  
24 following shall apply:

25 (i) The project must be completed within three years of the  
26 project's start date.

27 (ii) Within five years of [a] the project's start date, [a]  
28 the taxpayer must complete to the department's satisfaction an  
29 application on a form and in a manner as determined by the  
30 department to attest that the project has been completed and the

eligibility criteria has been satisfied.

(3) For a private capital investment greater than one hundred fifty million one dollars (\$150,000,001) and less than two hundred fifty million dollars (\$250,000,000), the following shall apply:

(i) The project must be completed within five years of the project's start date.

(ii) Within seven years of the project's start date, the taxpayer must complete to the department's satisfaction an application on a form and in a manner as determined by the department to attest that the project has been completed and the eligibility criteria has been satisfied.

(4) For a private capital investment greater than two hundred fifty million one dollars (\$250,000,001) and less than three hundred fifty million dollars (\$350,000,000), the following shall apply:

(i) The project must be completed within seven years of the project's start date.

(ii) Within nine years of the project's start date, the taxpayer must complete to the department's satisfaction an application on a form and in a manner as determined by the department to attest that the project has been completed and the eligibility criteria has been satisfied.

(5) For a private capital investment greater than three hundred fifty million one dollars (\$350,000,001), the department shall establish the time period from the project's start date in which the project must be completed and the time period in which the application as described in paragraph (4) must be completed.

(c) Upon the receipt of the taxpayer's application, the Department of Revenue [must] shall make a finding [that] whether

1 the applicant has filed all required State tax reports and  
2 returns for all applicable tax years and paid any balance of  
3 State tax due as determined at settlement, assessment or  
4 determination, and the department, then in conjunction with the  
5 Department of Revenue, shall make an eligibility or satisfaction  
6 determination within ninety days of submission. If the  
7 department makes a satisfaction determination, the department  
8 and the taxpayer shall execute a satisfaction commitment letter  
9 containing the following:

10 (1) The number of new jobs created and their corresponding  
11 description.

12 (2) The number of new jobs created during construction of  
13 the project.

14 (3) The amount of private capital investment in the creation  
15 of new jobs.

16 (4) The increase in the annual taxable payroll attributable  
17 to new manufacturing jobs.

18 (5) A determination of the maximum allowable deduction  
19 against a taxpayer's qualified tax liability under this article.

20 (6) Any other information as the department deems  
21 appropriate.

22 (d)

23 (1.1) If the private capital investment is in excess of  
24 sixty million dollars (\$60,000,000), but not more than one  
25 hundred million dollars (\$100,000,000), the maximum allowable  
26 deduction shall be equal to thirty-seven and one-half per cent  
27 of the private capital investment utilized in the creation of  
28 new or refurbished manufacturing capacity. A taxpayer may  
29 utilize the deduction in an amount not to exceed seven and one-  
30 half per cent of the private capital investment utilized in the

1 creation of new or refurbished manufacturing capacity in any one  
2 year of the succeeding ten tax years immediately following the  
3 department's satisfaction determination and the execution of a  
4 satisfaction commitment letter, up to the maximum allowable  
5 deduction. This paragraph shall only apply to applications made  
6 prior to January 1, 2024.

7 (1.2) If [the] a taxpayer's private capital investment for a  
8 project exceeds [one hundred million dollars (\$100,000,000)]  
9 fifty million dollars (\$50,000,000), the maximum allowable  
10 deduction shall be equal to twenty-five per cent of the private  
11 capital investment utilized in the creation of new or  
12 refurbished manufacturing capacity. A taxpayer may utilize the  
13 deduction in an amount not to exceed five per cent of the  
14 private capital investment utilized in the creation of new or  
15 refurbished manufacturing capacity in any one year of the  
16 succeeding ten tax years immediately following the department's  
17 satisfaction determination and the execution of a satisfaction  
18 commitment letter, up to the maximum allowable deduction.

19 (1.3) If a taxpayer executes a satisfaction commitment  
20 letter for more than two concurrent projects with a total  
21 private capital investment exceeding five hundred million  
22 dollars (\$500,000,000), the maximum allowable deduction for any  
23 succeeding project shall be equal to twenty-five per cent of the  
24 private capital investment utilized in the creation of new or  
25 refurbished manufacturing capacity. A taxpayer may utilize the  
26 deduction in an amount not to exceed five per cent of the  
27 private capital investment utilized in the creation of new or  
28 refurbished manufacturing capacity in any one year of the  
29 succeeding twenty tax years immediately following the  
30 department's satisfaction determination and the execution of a

1 satisfaction commitment letter, up to the maximum allowable  
2 deduction.

3 (3) A taxpayer cannot use the deduction to reduce [its] the  
4 taxpayer's tax liability by more than fifty per cent of the tax  
5 liability under this article for the taxable year. The deduction  
6 is nontransferable and any unused portion in a tax year shall  
7 expire at the end of the corresponding tax year.

8 Section ~~2.~~~~This~~ 4. THE AMENDMENT OF SECTION 407.7 OF THE <--  
9 act shall apply to tax years beginning after December 31, 2023.

10 Section ~~3~~ 5. This act shall take effect immediately. <--