

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1745 Session of
2023

INTRODUCED BY FRIEL, MARCELL, HILL-EVANS, T. DAVIS, McNEILL,
BRENNAN, MADDEN, HANBIDGE, ROZZI, SANCHEZ, WEBSTER, GUENST,
PROBST, KAZEEM, SHUSTERMAN, OTTEN, BOROWSKI, DALEY, TAKAC,
GREEN, ISAACSON AND CERRATO, OCTOBER 31, 2023

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, DECEMBER 12, 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 personal income tax, further providing for
11 classes of income; and providing for 529 savings account
12 employer contribution tax credit.

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

15 Section 1. Section 303(a.7)(2)(i) of the act of March 4,
16 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is
17 amended by adding a clause to read:

18 Section 303. Classes of Income.--* * *

19 (a.7) The following apply:

20 * * *

21 (2) (i) The following shall not be subject to tax under

1 this article:

2 * * *

3 (E) Any amount received by an employee through an employer's
4 contribution to an account ~~under Article XIX-J.~~ OWNED BY AN <--
5 EMPLOYEE WHO HAS ENTERED INTO A TUITION ACCOUNT PROGRAM CONTRACT
6 UNDER THE ACT OF APRIL 3, 1992 (P.L.28, NO.11), KNOWN AS THE
7 "TUITION ACCOUNT PROGRAMS AND COLLEGE SAVINGS BOND ACT."

8 * * *

9 Section 2. The act is amended by adding an article to read:

10 ARTICLE XIX-J
11 529 SAVINGS ACCOUNT EMPLOYER
12 CONTRIBUTION TAX CREDIT

13 Section 1901-J. Scope of article.

14 This article relates to the 529 savings account employer
15 contribution tax credit program.

16 Section 1902-J. Definitions.

17 The following words and phrases when used in this article
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Account." An account owned by an employee who has entered
21 into a Tuition Account Program Contract under the act of April
22 3, 1992 (P.L.28, No.11), known as the Tuition Account Programs
23 and College Savings Bond Act, OR A TUITION ACCOUNT PROGRAM <--
24 CONTRACT ADMINISTERED BY ANOTHER STATE, notwithstanding the
25 named beneficiary of the account.

26 "Contribution." A deposit of money into an employee-owned
27 account during the tax year.

28 "Department." The TREASURY Department ~~of Revenue~~ of the <--
29 Commonwealth.

30 "PASS-THROUGH ENTITY." ANY OF THE FOLLOWING: <--

1 (1) A PARTNERSHIP AS DEFINED IN SECTION 301(N.0).

2 (2) A PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION
3 301(N.1).

4 (3) AN UNINCORPORATED ENTITY SUBJECT TO SECTION 307.21.

5 "STATE TAX LIABILITY." ANY OF THE TAXES DUE UNDER ARTICLE
6 III, IV, VII, VIII, IX, XV OR XX OR A TAX UNDER ARTICLE XVI OF
7 THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE
8 INSURANCE COMPANY LAW OF 1921. THE TERM SHALL NOT INCLUDE ANY
9 TAX WITHHELD BY AN EMPLOYER FROM AN EMPLOYEE UNDER ARTICLE III.

10 "Tax credit." The 529 savings account employer contribution
11 tax credit established under section 1903-J.

12 "Tuition Account Program Contract." As defined in section
13 302 of the Tuition Account Programs and College Savings Bond
14 Act.

15 Section 1903-J. Credit for employer contributions to tuition
16 savings accounts.

17 (a) Tax credit.--For taxable years beginning after December
18 31, 2023, and ending before January 1, 2029, an employer that
19 makes a contribution to an account owned by an employee under
20 the Tuition Account Guaranteed Savings Program OR TUITION
21 ACCOUNT INVESTMENT PROGRAM may claim a tax credit against the
22 employer's State tax liability.

<--

23 (b) Amount of tax credit.--The amount of the tax credit
24 under subsection (a) shall be equal to 25% of the employer's
25 aggregate contributions made to accounts owned by employees
26 during the tax year.

27 (c) Contribution limit for employers.--The total amount of
28 contributions that an employer may make to accounts owned by
29 employees shall be no more than \$500 per employee during the tax
30 year.

1 (d) Proof of contribution.--In order to receive the tax
2 credit, an employer shall provide the department with proof that
3 the employer has made qualifying contributions to employee-owned
4 accounts under this article at the time of filing the employer's
5 tax return.

6 Section 1904-J. Carryover, carryback and, assignment AND PASS- <--
7 THROUGH of credit.

8 (a) General rule.--If the amount of the tax credit allowed
9 under this article exceeds the employer's tax liability in the
10 tax year in which the tax credit is approved, the excess tax
11 credit may be carried over to succeeding tax years for a period
12 not to exceed three years to reduce the employer's tax liability
13 during those tax years. The following shall apply:

14 (1) A tax credit that is carried over to succeeding tax
15 years must be applied first to the earliest tax year
16 possible.

17 (2) Any credit remaining after three tax years following
18 the initial approval of a tax credit under this article shall
19 not be refunded or credited to the employer.

20 (b) No carryback or refund.--An employer approved for a tax
21 credit is not entitled to carry back or obtain a refund of all
22 or any portion of an unused tax credit granted to the employer
23 under this article.

24 (C) PASS-THROUGH ENTITY.--IF AN EMPLOYER IS A PASS-THROUGH <--
25 ENTITY AND HAS AN UNUSED TAX CREDIT UNDER SECTION 1903-J, THE
26 EMPLOYER MAY ELECT IN WRITING, ACCORDING TO PROCEDURES
27 ESTABLISHED BY THE DEPARTMENT OF REVENUE, TO TRANSFER ALL OR A
28 PORTION OF THE CREDIT TO SHAREHOLDERS, MEMBERS OR PARTNERS IN
29 PROPORTION TO THE SHARE OF THE ENTITY'S DISTRIBUTIVE INCOME TO
30 WHICH THE SHAREHOLDER, MEMBER OR PARTNER IS ENTITLED. THE

1 FOLLOWING APPLY:

2 (1) THE SAME UNUSED TAX CREDIT UNDER SUBSECTION (B) MAY
3 NOT BE CLAIMED BY:

4 (I) THE PASS-THROUGH ENTITY; AND

5 (II) A SHAREHOLDER, MEMBER OR PATRON OF THE PASS-
6 THROUGH ENTITY.

7 (2) A SHAREHOLDER, MEMBER OR PARTNER OF A PASS-THROUGH
8 ENTITY TO WHOM A CREDIT IS TRANSFERRED UNDER THIS SUBSECTION
9 SHALL IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE YEAR IN
10 WHICH THE TRANSFER IS MADE. THE SHAREHOLDER, MEMBER OR
11 PARTNER MAY NOT CARRY FORWARD, CARRY BACK, OBTAIN A REFUND OF
12 OR SELL OR ASSIGN THE CREDIT.

13 Section 1905-J. Departmental duties.

14 (a) Guidelines.--The department shall publish guidelines and
15 may promulgate regulations necessary for the implementation and
16 administration of this article.

17 (b) Verification of contributions.--The department shall
18 ~~coordinate with the Treasury Department to obtain~~ PROVIDE THE <--
19 DEPARTMENT OF REVENUE WITH information necessary to verify that
20 an employer applying for a tax credit under this article has
21 made contributions to employees' accounts and the aggregate
22 amount of contributions made.

23 Section 1906-J. Nondiscrimination in contributions.

24 (a) Accounts owned by employees.--An employee who owns an
25 account shall have equal opportunity to receive a contribution
26 from the employer.

27 (b) Duty of employers.--If an employer chooses to make
28 contributions to employee-owned accounts for the purposes of
29 claiming the tax credit, the employer shall make equal
30 contributions during the tax year to any employee that either

owns an account or chooses to open an account while employed by
the employer.

(c) Rights of employees.--An employee who owns an account
may voluntarily opt out of an employer contribution benefit
during any tax year. An employee who opts out of a contribution
benefit from the employer during one tax year may elect to
receive the contribution benefit during another succeeding tax
year.

Section 1907-J. Report to General Assembly.

(a) Annual report.--No later than July 1, 2024, and each
July 1 thereafter, the department shall submit a report to the
General Assembly indicating the effectiveness of the tax credit
under this article.

(b) Information required.--The report required under
subsection (a) shall include the following information:

(1) The number of tax credits approved under this
article.

(2) The amount of tax credits approved under this
article.

(3) The number of tax credits denied and the reason for
denial.

Section 3. This act shall take effect in 60 days.