

PA H 1219, Amended

Pennsylvania

SUMMARY: Provides for certain tax credits; confers powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribes crimes, offenses and penalties; relates to corporate net income tax; provides for definitions and for the imposition of tax and for a manufacturing innovation and reinvestment deduction.~SAME AS:

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

05/22/2023 FILED.

05/24/2023 INTRODUCED.

05/24/2023 To HOUSE Committee on FINANCE.

06/22/2023 From HOUSE Committee on FINANCE. Reported as amended.

06/22/2023 In HOUSE. Read first time.

06/22/2023 Rereferred to HOUSE Committee on RULES.

09/22/2023 From HOUSE Committee on RULES.

09/22/2023 In HOUSE. Laid on table.

09/22/2023 In HOUSE. Removed from table.

09/22/2023 Rereferred to HOUSE Committee on RULES.

10/02/2023 From HOUSE Committee on RULES.

10/02/2023 In HOUSE. Amendment No. A02152, A02153 adopted on floor.

10/02/2023 In HOUSE. Read second time.

10/02/2023 Rereferred to HOUSE Committee on APPROPRIATIONS.

10/03/2023 From HOUSE Committee on APPROPRIATIONS. Reported as amended.

10/03/2023 Corrective reprint issued.

10/03/2023 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.

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Amended

October 3, 2023

Briggs

CORRECTIVE REPRINT

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL No. 1219

Session of 2023

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

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 3, 2023

AN ACT

~~Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," in corporate net income tax, further providing for definitions, for imposition of tax and for manufacturing innovation and reinvestment deduction.~~

AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT, COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND PENALTIES," IN PERSONAL INCOME TAX, FURTHER PROVIDING FOR CLASSES OF INCOME AND FOR SPECIAL TAX PROVISIONS FOR POVERTY AND PROVIDING FOR ALTERNATIVE SPECIAL TAX PROVISIONS FOR POVERTY; IN CORPORATE NET INCOME TAX, FURTHER PROVIDING FOR DEFINITIONS, FOR IMPOSITION OF TAX, FOR REPORTS AND PAYMENT OF TAX, FOR CONSOLIDATED REPORTS AND FOR MANUFACTURING INNOVATION AND REINVESTMENT DEDUCTION; IN REALTY TRANSFER TAX, FURTHER PROVIDING FOR TRANSFER OF TAX; IN TAX CREDIT AND TAX BENEFIT ADMINISTRATION, FURTHER PROVIDING FOR DEFINITIONS; IN ENTERTAINMENT PRODUCTION TAX CREDIT, FURTHER PROVIDING FOR DEFINITIONS, FOR CREDIT FOR QUALIFIED FILM PRODUCTION EXPENSES, FOR CARRYOVER, CARRYBACK AND ASSIGNMENT OF CREDIT AND FOR LIMITATIONS; IN PENNSYLVANIA ECONOMIC DEVELOPMENT FOR A GROWING ECONOMY (PA EDGE) TAX CREDITS, PROVIDING FOR BIOTECHNOLOGY; IN NEIGHBORHOOD ASSISTANCE TAX CREDIT, FURTHER PROVIDING FOR TAX CREDIT AND FOR GRANT OF TAX CREDIT; PROVIDING FOR EXPANDED NEIGHBORHOOD IMPROVEMENT ZONES; IN PENNSYLVANIA CHILD AND DEPENDENT CARE ENHANCEMENT TAX CREDIT PROGRAM, FURTHER PROVIDING FOR CREDIT FOR CHILD AND DEPENDENT CARE EMPLOYMENT-RELATED EXPENSES; PROVIDING FOR PUBLIC TRANSPORTATION TRUST FUND; AND, IN GENERAL PROVISIONS, FURTHER PROVIDING FOR UNDERPAYMENT OF ESTIMATED TAX, FOR METHOD OF FILING AND FOR ALLOCATION OF TAX CREDITS.

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

*****TEXT OMITTED, DOES NOT PERTAIN TO FILM*****

SECTION 10. SECTION 1712-D(B) OF THE ACT, AMENDED JULY 8, 2022 (P.L.513, NO.53), IS AMENDED TO READ:

SECTION 1712-D. CREDIT FOR QUALIFIED FILM PRODUCTION EXPENSES.

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(B) REVIEW AND APPROVAL.--THE DEPARTMENT SHALL ESTABLISH APPLICATION

PERIODS NOT TO EXCEED 90 DAYS EACH. ALL APPLICATIONS RECEIVED DURING THE APPLICATION PERIOD SHALL BE REVIEWED AND EVALUATED BY THE DEPARTMENT BASED ON THE FOLLOWING CRITERIA:

(1) THE ANTICIPATED NUMBER OF PRODUCTION DAYS IN A QUALIFIED PRODUCTION FACILITY.

(2) THE ANTICIPATED NUMBER OF PENNSYLVANIA EMPLOYEES.

(3) THE NUMBER OF PREPRODUCTION DAYS THROUGH POSTPRODUCTION DAYS IN PENNSYLVANIA.

(4) THE ANTICIPATED NUMBER OF DAYS SPENT IN PENNSYLVANIA HOTELS -, EXCEPT IN CONNECTION WITH THE PENNSYLVANIA FILM PRODUCER RESERVE FOR WHICH THE ANTICIPATED NUMBER OF DAYS SPENT IN PENNSYLVANIA HOTELS SHALL NOT APPLY AS EVALUATION CRITERIA.

(5) THE PENNSYLVANIA PRODUCTION EXPENSES IN COMPARISON TO THE PRODUCTION BUDGET.

(5.1) FOR A PENNSYLVANIA FILM PRODUCER, THE PORTION OF ALL PREPRODUCTION EXPENSES, PRODUCTION EXPENSES AND POSTPRODUCTION EXPENSES INCURRED IN PENNSYLVANIA.

(6) THE USE OF STUDIO RESOURCES -, IF THE RESOURCES ARE PERMANENTLY LOCATED IN AND OWNED BY THE TAXPAYERS OF THIS COMMONWEALTH.

(7) IF THE APPLICATION INCLUDES A QUALIFIED POSTPRODUCTION EXPENSE:

(I) THE QUALIFIED POSTPRODUCTION FACILITY WHERE THE ACTIVITY WILL OCCUR.

(II) THE ANTICIPATED TYPE OF POSTPRODUCTION ACTIVITY THAT WILL BE CONDUCTED.

(7.1) IF A MULTIFILM PRODUCTION APPLICATION IS SUBMITTED, THE DEPARTMENT SHALL CONSIDER THE ABILITY OF THE TAXPAYER TO PRODUCE MULTIPLE FILMS WITHIN THIS COMMONWEALTH DURING THE PROPOSED PERIOD OF PRODUCTION AND THE POTENTIAL ECONOMIC IMPACT, INCLUDING TOURISM IMPACT, OF THE MULTIPLE FILMS TO THIS COMMONWEALTH. THE TAXPAYER MAY SUPPLEMENT THE MULTIFILM PRODUCTION APPLICATION WITH ADDITIONAL FILMS DURING THE PERIOD OF PRODUCTION. THE DEPARTMENT MAY ANNUALLY EXTEND THE MULTIFILM PRODUCTION APPLICATION'S PERIOD OF PRODUCTION BEFORE THE EXPIRATION OF THE PERIOD OF PRODUCTION. THE TAXPAYER MAY NOT INCLUDE A FILM IN THE MULTIFILM PRODUCTION APPLICATION THAT WAS THE SUBJECT OF AN APPLICATION SUBMITTED UNDER THIS SUBSECTION BEFORE JANUARY 1, 2022.

(7.2) THE FILM WILL BE PRODUCED BY A PENNSYLVANIA FILM PRODUCER.

(7.3) THE TAXPAYER APPLYING FOR CREDITS IS A PENNSYLVANIA FILM PRODUCER.

(7.4) THE TAXPAYER APPLYING FOR CREDITS IS A MINORITY-OWNED BUSINESS OR WOMEN-OWNED BUSINESS, AS THOSE TERMS ARE DEFINED IN 74 PA.C.S. § 303(B) (RELATING TO DIVERSE BUSINESS PARTICIPATION).

(8) OTHER CRITERIA THAT THE DIRECTOR OF THE PENNSYLVANIA FILM OFFICE DEEMS APPROPRIATE TO ENSURE THE GROWTH AND PROSPERITY OF THE LOCAL PENNSYLVANIA FILM INDUSTRY AND PENNSYLVANIA FILM PRODUCERS OR YIELD MAXIMUM EMPLOYMENT AND BENEFIT WITHIN THIS COMMONWEALTH.

UPON DETERMINING THE TAXPAYER HAS INCURRED OR WILL INCUR QUALIFIED FILM PRODUCTION EXPENSES, THE DEPARTMENT MAY APPROVE THE TAXPAYER FOR A TAX CREDIT. APPLICATIONS NOT APPROVED MAY BE REVIEWED AND CONSIDERED IN SUBSEQUENT APPLICATION PERIODS. THE DEPARTMENT MAY APPROVE A TAXPAYER FOR A TAX CREDIT BASED ON ITS EVALUATION OF THE CRITERIA UNDER THIS SUBSECTION.

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SECTION 11. SECTION 1714-D(F)(2) OF THE ACT IS AMENDED TO READ:

SECTION 1714-D. CARRYOVER, CARRYBACK AND ASSIGNMENT OF CREDIT.

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(F) PURCHASERS AND ASSIGNEES.--EXCEPT AS PROVIDED IN SUBSECTIONS (G) AND (H), THE FOLLOWING APPLY:

* * *

(2) THE AMOUNT OF THE TAX CREDIT THAT A PURCHASER OR ASSIGNEE MAY USE AGAINST ANY ONE QUALIFIED TAX LIABILITY MAY NOT EXCEED ~~50%~~ 75% OF SUCH QUALIFIED TAX LIABILITY FOR THE TAXABLE YEAR.

* * *

SECTION 11.1. SECTION 1716-D(A), (B), (E) AND (F) OF THE ACT, AMENDED OR ADDED JULY 8, 2022 (P.L.513, NO.53), ARE AMENDED TO READ:

SECTION 1716-D. LIMITATIONS.

(A) CAP.--EXCEPT FOR TAX CREDITS REISSUED UNDER SECTION 1716.1-D, IN NO CASE SHALL THE AGGREGATE AMOUNT OF TAX CREDITS AWARDED IN ANY FISCAL YEAR UNDER THIS SUBARTICLE EXCEED ~~\$100,000,000~~ \$150,000,000. THE DEPARTMENT MAY, IN ITS DISCRETION, AWARD IN ONE FISCAL YEAR UP TO:

(1) THIRTY PERCENT OF THE DOLLAR AMOUNT OF FILM PRODUCTION TAX CREDITS AVAILABLE TO BE AWARDED IN THE NEXT SUCCEEDING FISCAL YEAR.

(2) TWENTY PERCENT OF THE DOLLAR AMOUNT OF FILM PRODUCTION TAX CREDITS AVAILABLE TO BE AWARDED IN THE SECOND SUCCESSIVE FISCAL YEAR.

(3) TEN PERCENT OF THE DOLLAR AMOUNT OF FILM PRODUCTION TAX CREDITS AVAILABLE TO BE AWARDED IN THE THIRD SUCCESSIVE FISCAL YEAR.

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(B) INDIVIDUAL LIMITATIONS.--THE FOLLOWING SHALL APPLY:

(1) EXCEPT AS SET FORTH IN PARAGRAPH (1.1) ~~OR (1.2)~~, (1.2), (1.3) OR (1.4), THE AGGREGATE AMOUNT OF FILM PRODUCTION TAX CREDITS AWARDED BY THE DEPARTMENT UNDER SECTION 1712-D(D) TO A TAXPAYER FOR A FILM MAY NOT EXCEED 25% OF THE QUALIFIED FILM PRODUCTION EXPENSES TO BE INCURRED.

(1.1) IN ADDITION TO THE TAX CREDIT UNDER PARAGRAPH (1), A TAXPAYER IS ELIGIBLE FOR A CREDIT IN THE AMOUNT OF 5% OF THE QUALIFIED FILM PRODUCTION EXPENSES INCURRED BY THE TAXPAYER IF THE TAXPAYER:

(I) FILMS A FEATURE FILM, TELEVISION FILM OR TELEVISION SERIES, WHICH IS INTENDED AS PROGRAMMING FOR A NATIONAL AUDIENCE; AND

(II) FILMS IN A QUALIFIED PRODUCTION FACILITY WHICH MEETS THE MINIMUM STAGE FILMING REQUIREMENTS.

(1.2) A QUALIFIED POSTPRODUCTION EXPENSE SHALL QUALIFY FOR A 30% CREDIT.

(1.3) IN ADDITION TO THE TAX CREDIT UNDER PARAGRAPH (1), A TAXPAYER IS ELIGIBLE FOR A CREDIT IN THE AMOUNT OF 5% OF THE QUALIFIED FILM PRODUCTION EXPENSES INCURRED BY THE TAXPAYER, WHICH IN THE AGGREGATE WOULD QUALIFY FOR A 30% CREDIT, IF THE TAXPAYER:

(I) FILMS A FEATURE FILM, TELEVISION FILM, TELEVISION SERIES OR OTHER VISUAL MEDIA, WHICH IS INTENDED AS PROGRAMMING FOR A NATIONAL AUDIENCE; AND

(II) IS A MINORITY-OWNED BUSINESS OR WOMEN-OWNED BUSINESS AS THOSE TERMS

ARE DEFINED IN 74 PA.C.S. § 303(B) (RELATING TO DIVERSE BUSINESS PARTICIPATION).

(1.4) IN ADDITION TO THE TAX CREDIT UNDER PARAGRAPHS (1) AND (1.1), A TAXPAYER IS ELIGIBLE FOR A CREDIT IN THE AMOUNT OF 5% OF THE QUALIFIED FILM PRODUCTION EXPENSES INCURRED BY THE TAXPAYER, WHICH IN THE AGGREGATE SHALL NOT EXCEED 35% OF THE QUALIFIED FILM PRODUCTION EXPENSES INCURRED BY THE TAXPAYER, IF THE TAXPAYER FILMS A FEATURE FILM, TELEVISION FILM OR TELEVISION SERIES, WHICH IS INTENDED AS PROGRAMMING FOR A NATIONAL AUDIENCE, IN A QUALIFIED LOCATION IN THIS COMMONWEALTH.

(2) A TAXPAYER THAT HAS RECEIVED A GRANT UNDER 12 PA.C.S. § 4106 (RELATING TO APPROVAL) SHALL NOT BE ELIGIBLE FOR A FILM PRODUCTION TAX CREDIT UNDER THIS ACT FOR THE SAME FILM.

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(E) PENNSYLVANIA FILM PRODUCER RESERVE.--THE DEPARTMENT SHALL ANNUALLY RESERVE AND ALLOCATE ~~\$5,000,000~~ 10% OF THE TAX CREDITS AUTHORIZED UNDER THIS SUBARTICLE IN SUPPORT OF PROJECTS PRODUCED BY A PENNSYLVANIA FILM PRODUCER. A PENNSYLVANIA FILM PRODUCER SHALL NOT BE LIMITED IN ELIGIBILITY FOR A TAX CREDIT SOLELY TO THE PENNSYLVANIA FILM PRODUCER RESERVE IN ANY FISCAL YEAR. THE FOLLOWING APPLY:

(1) NOT MORE THAN 10% OF THE TOTAL AMOUNT OF TAX CREDITS AUTHORIZED BY THIS SUBSECTION SHALL BE ALLOCATED TO ANY SINGLE TAX CREDIT APPLICANT.

(2) NOT MORE THAN 50% OF THE TOTAL AMOUNT OF TAX CREDITS AUTHORIZED BY THIS SUBSECTION SHALL BE ALLOCATED TO FILM PROJECTS WITH PRODUCTION EXPENSES IN EXCESS OF \$500,000.

(3) A FILM PROJECT THAT QUALIFIES UNDER THIS SUBSECTION NEED ONLY DOCUMENT THAT 60% OF THE FINANCING FOR THE FILM PROJECT HAS BEEN SECURED PRIOR TO BEING CONSIDERED FOR A TAX CREDIT UNDER THIS SUBARTICLE, WITH THE REMAINING 40% OF THE FINANCING TO BE SECURED BY THE FILM PROJECT PRIOR TO THE PLANNED START DATE OF THE PRINCIPAL PHOTOGRAPHY IN THIS COMMONWEALTH.

(4) BEFORE AWARDING A TAX CREDIT UNDER THIS SUBARTICLE, ADDITIONAL CONSIDERATION SHALL BE GIVEN TO THE FOLLOWING:

(I) WHETHER PENNSYLVANIA PRODUCTION EXPENSES OF THE FILM PROJECT COMPRISE AT LEAST 60% OF THE TOTAL PRODUCTION EXPENSES.

(II) WHETHER THE TAX CREDIT APPLICANT IS A MINORITY BUSINESS ENTERPRISE, AS DEFINED IN 18 PA.C.S. § 4107.2(B) (RELATING TO DECEPTION RELATING TO CERTIFICATION OF MINORITY BUSINESS ENTERPRISE OR WOMEN'S BUSINESS ENTERPRISE).

(III) WHETHER THE TAX CREDIT APPLICANT IS A WOMEN'S BUSINESS ENTERPRISE, AS DEFINED IN 18 PA.C.S. § 4107.2(B).

(F) IF THE TOTAL AMOUNT OF TAX CREDITS RESERVED AND ALLOCATED UNDER SUBSECTION (E) IS NOT FULLY AWARDED ~~IN~~ THREE MONTHS PRIOR TO THE END OF A FISCAL YEAR, THE AMOUNT NOT AWARDED SHALL BE MADE AVAILABLE FOR USE BY TAXPAYERS WHO ARE NOT PENNSYLVANIA FILM PRODUCERS.

TEXT OMITTED, DOES NOT PERTAIN TO FILM

(4) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IMMEDIATELY.