

## 2007 STATE TAX SUMMARY

ACT NO. 55 of 2007  
SENATE BILL 97, PN 1327  
ACT NO. 45 of 2007  
HOUSE BILL 842, PN 2347

### Personal Income Tax

- **Check-offs**

The check-off for breast and cervical cancer research will no longer have an expiration date. The expiration date for the check-offs for wild resource conservation and organ and tissue donation awareness has been extended to December 31, 2009.

### Bank Shares Tax

- **Goodwill Deduction**

Banks involved in mergers or acquisitions will now be permitted to deduct goodwill from the book value of total equity capital generated as a result of combinations. This change will apply to combinations occurring after June 30, 2001 and to the returns due on March 15, 2008.

### Tax Credits

- **Film Tax Credit**

This legislation creates a new article entitled the Film Production Tax Credit. This credit will be available for certain production expenses of the producers of feature films and certain television commercials or shows intended for a national audience. Production expenses include compensation paid to individuals or payments made to entities representing individuals for their services, the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories, the cost of transportation; the cost of insurance coverage, the costs of food and lodging, the purchase of music or story rights; and the cost of rental of facilities and equipment. Production expenses will not include certain items such as deferred compensation or profit sharing, development costs, marketing or advertising expenses or expenses related to the selling of the credit.

A tax credit equal to 25% of qualified film production expense may be taken against PIT (except employer withholding tax), CNIT or CSFT. Qualified film production expenses are Pennsylvania production expenses if at least 60% of the total production expenses are incurred in Pennsylvania except that compensation paid to individuals or payments made to entities representing individuals for services provided in the film cannot exceed \$15 million.

The Department of Community and Economic Development (DCED) will administer the award of the credits on a first-come, first-served basis using the date on which the application for credits are received. DCED will certify the amount of the credit to Revenue upon execution of a contract outlining the production and Pennsylvania production expenses. Any taxpayer who is awarded this credit and fails to incur qualified production

expenses as outlined in the contract shall repay the amount of the credit claimed to the Commonwealth.

Credits granted may be carried forward; however, they may not be carried back or refunded. Credits may be sold or assigned with the approval of Department of Community and Economic Development and the Department of Revenue pursuant to regulations jointly promulgated.

There are procedures for the transfer of unused credits by pass-through entities (Subchapter S corporation, Limited Liability Companies and Partnerships) to a shareholder, member or partner.

Those films that receive a film production grant are not eligible for this credit for the same film.

The total amount of credits that can be granted in any fiscal year cannot exceed \$75 million.

- **Neighborhood Assistance Tax Credit**

Pass-through entities will now be eligible for this credit. If the entity cannot use this credit, the entity may elect, in writing, to transfer the credit to its shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled. The shareholder, member or partner who receives the credit must immediately claim the credit in the taxable year in which the credit is transferred and may not carry it forward or backward, obtain a refund or sell the credit.

This credit may now be sold or assigned. The taxpayer must apply to DCED for approval of the sale or assignment. DCED and Revenue shall jointly promulgate guidelines for the approval of these applications.

The amount of credit that may be awarded to a taxpayer is 55% (increased from 50%) of the amount contributed by a business firm, or 75% (increased from 70%) of the amount contributed to special program priorities defined by the Department of Community and Economic Development in regulations. For private companies, the amount is 25% (increased from 20%) of the amount of qualified investment, or 35% (increased from 30%) of the amount invested in special program priorities. A credit equal to 75% of the contributions made by a business firm during a taxable year for comprehensive service projects with a five-year commitment may be awarded. A credit equal to 80% of the contributions made by a business firm during a taxable year for comprehensive service projects with a six-year commitment may be awarded. The amount of the credits awarded annually cannot exceed \$500,000 (increased from \$250,000) for contributions or investments for single projects or \$1,250,000 for contributions or investments for four projects.

The amount of credits that can be awarded in any fiscal year remains at \$18 million and of that amount, \$2 million is to be allocated exclusively for pass-through entities. If the \$2 million is not used, then the unused portion is to be available for other taxpayers.

These changes shall take effect immediately.

- **Resource Enhancement and Protection Tax Credit**

This legislation establishes the Resource Enhancement and Protection (REAP) tax credit. The tax credit may be used against personal income tax, corporate net income tax, capital stock and franchise tax, bank shares tax, title insurance company premiums tax, insurance premiums tax and mutual thrift institutions tax. These credits can be awarded to eligible projects, applicants or sponsors of eligible projects. Dependent on the type of project, a tax credit in the amount of 75% of the eligible project or 50% of the project costs may be awarded up to a maximum amount of \$150,000 for each eligible applicant or project. There is no limitation on the amount of credit that can be awarded to a sponsor of the project.

The applicant must apply to the State Conservation Commission (“Commission”) for certification that a project meets best management practices and for authorization of the tax credit. Tax credits will be awarded on a first come first served basis. Once the Commission has authorized a credit, the Commission shall provide notice to the Department of the credit. The credit may be carried forward for 16 years.

There are procedures for the sale and assignment of the credit as well as for pass-through entities to transfer tax credits to their shareholders, partners or members. The total amount of credits that can be awarded in one fiscal year is \$10 million. If the Commission determines that a best management practice is not maintained, then the amount of the tax credit originally awarded shall be returned to the Department. The credit shall take effect in 90 days except that credits for legacy sediment cannot be issued prior to July 1, 2008.

### **Sales and Use Tax**

- **Remanufacturing**

Effective immediately, the manufacturing exemption includes the remanufacturing of locomotive parts.

- **Exclusion for Commercial Motion Pictures Repealed**

There will no longer be an exclusion from sales and use tax for the production of commercial motion pictures. This repeal will take effect on October 1, 2007.

- **Bad Debt Refund**

The refund for sales tax remitted and attributable to bad debt is now expanded to private label credit cards. A private label credit card is a card that includes the name or logo of the retailer and can be used to make purchases from the retailer. This change will apply to amounts deducted as bad debts on Federal income tax returns required to be filed after January 1, 2008.

### **MISCELLANEOUS PROVISIONS**

- **Nexus Exclusion**

A nexus exemption is provided for the customers of powdered metallurgy parts manufacturers. This will be applicable to taxable years beginning after December 31, 2004, as well as taxable years as to which there is an appeal prior to the effective date of this act.

- **Certified Mail Requirement**

The Department will be required to mail by certified mail assessments that are \$300 or more. This will apply to assessments issued after December 31, 2007.

**Act 45 of 2007, House Bill 842, PN 2347 (Public School Code)**

- **Educational Improvement Tax Credit**

This act increases the total aggregate amount of Educational Improvement Tax Credits available for a fiscal year by \$16 million, from \$59 million to \$75 million. The amount of credits available for scholarship organizations has been increased by \$8.7 million to \$44.7 million per year. The amount available for contributions to educational improvements has been increased by \$4.3 million to \$22.3 million per year. The total amount of credits available for kindergarten organizations will now be \$8 million per year, an increase of \$3 million. This will take effect immediately.