

STATE TAX LEGISLATIVE SUMMARY – JULY 2021

Tax Reform Code Changes

Act 25 of 2021 (HB 952) – Act 25 made the following changes to the Tax Reform Code:

Bank Shares Tax

- **Bank Mergers:** Income of two or more banking institutions shall be combined on income statements of Reports of Condition in the event of mergers or acquisitions.

General Provisions

- **Bad Check Fee:** Effective 120 days after passage of the Act, the maximum fee assessed on bad checks decreases from \$1,000 to \$100.

Personal Income Tax

- **1099-NEC:** Technical clarification to conform the Tax Reform Code with the new Federal form 1099-NEC.
- **Crop Insurance Deferral:** Applicable to taxable years beginning after December 31, 2020, farmers are allowed to defer income received from disaster-related crop insurance payments for one year, mirroring federal law.
- **Electronic Payments:** Applicable to payments made after December 31, 2021, personal income tax payments equal to or greater than \$15,000 must be made electronically. Payments not made electronically will be subject to a penalty equaling 3% of the payment amount not to exceed \$500.

Sales Tax

- **Breast Pumps:** Applicable to sales at retail or uses after December 31, 2021, the sale at retail of tangible personal property manufactured for the purpose of initiating, supporting, or sustaining breast feeding is exempt from sales and use tax.
- **Computer Data Centers:** The treatment of sales and use tax assessed on computer data center equipment changes as follows:
 - Tax refunds cannot be issued by the Department of Revenue under the current Computer Data Center Equipment Incentive Program for the tax imposed upon the sale or use of computer data center equipment purchased after December 31, 2021.
 - Beginning January 1, 2022, the Incentive Program is replaced with the Computer Data Center Sales and Use Tax Exemption Program. Certified entities can annually submit for a sales and use tax certificate of exemption for purchased computer data center equipment used exclusively in the data center certified by the state.

- **Helicopter Simulators:** Effective 60 days after passage of the Act, the sale at retail of helicopter simulators, training materials, and corresponding software is exempt from sales and use tax.
- **Multipurpose Agriculture Vehicles:** Applicable to sales at retail or uses after December 31, 2021, the sale at retail of multipurpose agriculture vehicles used in farming is exempt from sales and use tax.

Table Games Tax

- **Sunset Date Removal:** The sunset date on the additional 2% state tax on casino table games is removed. This makes permanent the total 14% state tax on table games.

Incentives, Credits and Programs

- **Keystone Innovation Zone Program:** Deadlines for the Keystone Innovation Zone Program change as follows:
 - Application Deadline: From September 15 of each year for prior taxable year to December 1 for prior tax year
 - Certificate Award Deadline: From December 15 of each year to May 1 of each year following calendar year of application
 - Report Deadline: From December 31 of each year to October 1 of each year following calendar year of application
- **Keystone Opportunity Zone Program:**
 - Application and approval deadlines for the Additional Keystone Opportunity Expansion Zones, authorized under Act 13 of 2019, are extended from October 1, 2021 to October 1, 2022 and from December 31, 2021 to December 31, 2022, respectively.
 - The Department of Community and Economic Development may grant a five-year extension for a Keystone Opportunity Zone located within a county of the third class with a population between 350,000 and 410,000.
- **Local Resource Manufacturing Tax Credit:** The maximum number of Local Resource Manufacturing Tax Credit recipients is reduced from four to two. Additionally, the department can now award unallocated credits to no more than one taxpayer if additional capital investment and job requirements are met.
- **Mixed-Use Development Tax Credit:** The total aggregate amount of tax credits available in any fiscal year for the Mixed-Used Development Tax Credit shall increase to \$4.5 million from \$3 million.
- **Pennsylvania Housing Tax Credit:** The PA Housing Tax Credit received a fiscal appropriation amount for the first-time. The total aggregate amount of tax credits available in a fiscal year is \$10 million, beginning in FY 21-22.
- **Qualified Manufacturing Innovation and Reinvestment Deduction:** Applicable to tax years beginning after December 31, 2020, qualified manufacturing and

reinvestment deductions shall be applied to the taxable income of a taxpayer to reduce the taxpayer's qualified tax liability following the allocation and apportionment of income.

- **Research and Development Tax Credit:** Deadlines for the Research and Development Tax Credit Program change as follows:
 - Application Deadline: From September 15 to December 1
 - Department Approval: From December 15 of the calendar year to May 1 of the second calendar year following the close of the taxable year during which the expense was incurred
 - Annual Report: From March 15 of the following calendar year to October 1 of the following calendar year

- **Entertainment Tax Credits:** Multi-film projects now permitted within the program, if produced by the same taxpayer over a period of no less than one year and no more than four years.
 - Effective 30 days after passage of the Act, the Department of Revenue may reissue tax credits only after allowing taxpayers 90 days to submit applications for alternative individual films.

- **Entertainment Economic Enhancement Program:** The following changes are made to the Entertainment Economic Enhancement Program (EEEEP):
 - Unallocated EEEP credits may be carried forward to the next program year.
 - Eligible concert tour equipment, tour expenses, and qualified taxpayers are expanded.
 - Streaming performances are permitted under the PA Live Events Industry Covid-19 Emergency Assistance Program for fiscal years beginning on July 1, 2021 and ending June 30, 2023.
 - Venues are expanded to include qualified rehearsal facilities when used for streaming performances beginning on July 1, 2021 and ending June 30, 2023.

- **Tax Credit Administration:** The administration of tax credit programs is strengthened to prevent fraud and abuse of tax credits and tax benefits. Changes include expanding the oversight of administering agencies, increasing taxpayer responsibilities, requiring broker registration, and establishing an appeals process.
 - Effective 30 days after passage of the Act, the Department of Revenue is permitted to require electronic filing for applications for tax credits or tax benefits; may require the submission of additional documentation and verification, in-person or virtual interviews, and site inspections; develop risk scoring criteria for applications for tax credits or tax benefits; issue assessments against taxpayers in the event of improper use or conferring of tax credits or tax benefits; and be represented in all petition-related proceedings.
 - Effective 180 days after passage of the Act, brokers are required to register with the Department of Revenue; pay the Department of Revenue a civil fine of up to \$25,000 for the first offense and \$50,000 for each additional offense if broker registration requirements are violated; and post \$50,000 bond with the Department of Revenue.

- Reporting requirements are expanded to allow for greater transparency. Specifically, taxpayers shall report annually to the Department of Revenue or the administering agency after approval and until the tax credit or tax benefit is fully used. Additionally, the Department of Revenue or administering agency is required to provide taxpayer data on the utilization of tax credits or tax benefits to the Independent Fiscal Office, if applicable.
- ⊖ An appeals process is now in place for taxpayers, brokers, and the Department of Revenue concerning the administration of tax credits and tax benefits.

Fiscal Code Changes

Act 24 of 2021 (HB 1348) – Act 24 made the following changes to the Fiscal Code:

- **Confidential Information:** Any information gained by any administrative department, board, or commission providing for credits as administered by the Department of Revenue independently or in conjunction with other agencies or revenue transfers to improvement or economic development zones shall be confidential except for official purposes. This does not include information regarding the amount of refunds or credits and the identity of the entitled persons or corporations.

Public School Code Changes

Act 26 of 2021 (SB 381) – Act 26 made the following changes to the Public School Code:

- **Educational Tax Credits:** The total aggregate amount of all tax credits approved for contributions from business firms to scholarship organizations, educational improvement organizations, and pre-kindergarten scholarship organizations in a fiscal year increases to \$225 million from \$185 million. The minimum amount of the total aggregate amount to be used to provide tax credits for contributions from business firms to scholarship organizations increases to \$175 million from \$135 million.