

## 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," providing for a manufacturing tax credit; and  
11 prohibiting agreements under and repealing the Promoting  
12 Employment Across Pennsylvania Act.

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

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

18 ARTICLE XVIII-G

19 MANUFACTURING TAX CREDIT

20 Section 1801-G. Definitions.

21 The following words and phrases when used in this article  
22 shall have the meanings given to them in this section unless the  
23 context clearly indicates otherwise:

1 "Annual taxable payroll." The total amount of wages paid by  
2 an employer for the base year or year one, as applicable, from  
3 which personal income tax under Article III is withheld.

4 "Base year." The four calendar quarters preceding the start  
5 date.

6 "Department." The Department of Community and Economic  
7 Development of the Commonwealth.

8 "Manufacturing tax credit." A tax credit for which the  
9 department has issued a certificate under this article.

10 "New job." A newly created full-time job which has an  
11 average wage, at least equal to the county average wage where  
12 the job is located and which includes employer provided health  
13 benefits.

14 "Start date." The first day of the calendar quarter in which  
15 an application is submitted to the department unless the  
16 applicant requests and the department agrees to a later start  
17 date.

18 "Taxpayer." A company that is engaged in the creation of a  
19 new item of tangible personal property for sale.

20 "Wages." Remuneration paid by an employer to an individual  
21 with respect to the individual's employment.

22 "Year one." The four calendar quarters immediately following  
23 the start date.

24 Section 1802-G. Eligibility.

25 In order to be eligible to receive a manufacturing tax  
26 credit, a taxpayer must demonstrate to the department the  
27 following:

28 (1) The ability of the taxpayer to create an increase in  
29 the taxpayer's annual taxable payroll by at least \$1,000,000  
30 in year one through the creation of new jobs.

1           (2) The ability to maintain a new job for a period of at  
2 least five years from the start date.

3           (3) The intent to maintain operations in this  
4 Commonwealth for a period of at least five years from the  
5 start date.

6 Section 1803-G. Procedure.

7           (a) Application.--A taxpayer must complete and submit to the  
8 department a manufacturing tax credit application on a form and  
9 in a manner as determined by the department.

10          (b) Creation of new jobs.--The taxpayer must agree to create  
11 in year one at least one new job that increases the taxpayer's  
12 annual taxable payroll above the base year annual taxable  
13 payroll by \$1,000,000. The taxpayer must agree to retain the new  
14 job for at least five years from the start date.

15          (c) Approval.--If the department approves the taxpayer's  
16 application, the department and the taxpayer shall execute a  
17 commitment letter containing the following:

18           (1) A description of the new job created.

19           (2) The number of new jobs to be created.

20           (3) The amount of private capital investment in the  
21 project.

22           (4) The increase in year one of the annual taxable  
23 payroll for a new job above the base year amount of annual  
24 taxable payroll.

25           (5) The maximum manufacturing tax credit amount the  
26 taxpayer may claim.

27           (6) A signed statement that the taxpayer intends to  
28 maintain operations in this Commonwealth for at least five  
29 years from the start date.

30           (7) Any other information as the department deems

1 appropriate.

2 (d) Commitment letter.--After a commitment letter has been  
3 signed by both the Commonwealth and the taxpayer, the taxpayer  
4 must increase the annual taxable payroll in year one by at least  
5 \$1,000,000 above the base year amount from the creation of a new  
6 job up to the maximum manufacturing tax credit amount specified  
7 in the commitment letter. If the taxpayer does not increase the  
8 annual taxable payroll as provided under this subsection, the  
9 commitment letter shall be revoked and deemed to be null and  
10 void.

11 Section 1804-G. Manufacturing tax credit.

12 (a) Maximum amount.--A taxpayer may claim a manufacturing  
13 tax credit of up to 5% of the taxpayer's increase in annual  
14 taxable payroll, if the annual taxable payroll increases in year  
15 one by at least \$1,000,000 above the base year amount from the  
16 creation of a new job up to the maximum manufacturing tax credit  
17 amount specified in the commitment letter.

18 (b) Determination.--The annual taxable payroll in year one  
19 for a new job shall be the sum of the amount of annual taxable  
20 payroll in year one for the new jobs created after the base  
21 year.

22 (c) Certificate.--After verification by the department that  
23 the taxpayer has increased the annual taxable payroll in year  
24 one by at least \$1,000,000 above the base year amount from the  
25 creation of a new job up to the maximum manufacturing tax credit  
26 amount and any other conditions required by the department and  
27 specified in the commitment letter, the taxpayer shall receive a  
28 manufacturing tax credit certificate and filing information.

29 (d) Applicable taxes.--A taxpayer may apply the  
30 manufacturing tax credit to 100% of the tax liability of the

1 taxpayer under Article III, IV, VI, VII, VIII, IX, XI or XV.

2 (e) Term.--A taxpayer may claim the manufacturing tax credit  
3 for a period determined by the department, not to exceed the  
4 earlier of:

5 (1) five years from the date the taxpayer receives the  
6 manufacturing tax credit certificate; or

7 (2) six years from the start date.

8 (f) Availability.--A manufacturing tax credit shall be made  
9 available by the department on a first-come, first-served basis.

10 (g) Limitation.--Each fiscal year, \$5,000,000 in

11 manufacturing tax credits shall be made available to the  
12 department and may be awarded by the department in accordance  
13 with this article. In any fiscal year, the department may  
14 reissue or assign prior fiscal year manufacturing tax credits  
15 which have been recaptured under section 1806-G(a) or (b) and  
16 may award prior fiscal year manufacturing tax credits not  
17 previously issued. Prior fiscal year manufacturing tax credits  
18 may be reissued, assigned or awarded by the department without  
19 limitation under section 1806-G(a) or (b).

20 Section 1805-G. Limitations.

21 The following apply to manufacturing tax credits:

22 (1) Carry over. If the taxpayer cannot use the entire  
23 amount of the manufacturing tax credit for the taxable year  
24 in which the manufacturing tax credit is first approved, the  
25 excess may be carried over to succeeding taxable years and  
26 used as a credit against the qualified tax liability of the  
27 taxpayer for the taxable years. Each time the manufacturing  
28 tax credit is carried over to a succeeding taxable year, the  
29 manufacturing tax credit shall be reduced by the amount of  
30 the manufacturing tax credit used as a credit during the

1 immediately preceding taxable year. The manufacturing tax  
2 credit may be carried over and applied to succeeding taxable  
3 years for no more than three taxable years following the  
4 first taxable year for which the taxpayer was entitled to  
5 claim the credit.

6 (2) Application. A manufacturing tax credit approved by  
7 the department in a taxable year first shall be applied  
8 against the taxpayer's qualified tax liability for the  
9 current taxable year as of the date on which the credit was  
10 approved before the manufacturing tax credit can be applied  
11 against any tax liability under paragraph (1).

12 (3) No carryback or refund. A taxpayer shall not be  
13 entitled to carry back or obtain a refund of all or any  
14 portion of an unused manufacturing tax credit granted to the  
15 taxpayer under this article.

16 (4) Sale or assignment. The following shall apply:

17 (i) A taxpayer, upon application to and approval by  
18 the department, may sell or assign, in whole or in part,  
19 a manufacturing tax credit granted to the taxpayer.

20 (ii) The department and the Department of Revenue  
21 shall jointly issue guidelines for the approval of  
22 applications under this paragraph.

23 (iii) Before an application is approved, the  
24 Department of Revenue must make a finding that the  
25 applicant has filed all required State tax reports and  
26 returns for all applicable taxable years and paid any  
27 balance of State tax due as determined at settlement,  
28 assessment or determination by the Department of Revenue.

29 (iv) Notwithstanding any other provision of law, the  
30 Department of Revenue must settle, assess or determine

1 the tax of an applicant under this paragraph within 90  
2 days of the filing of each required final return or  
3 report in accordance with section 806.1(a)(5) of the act  
4 of April 9, 1929 (P.L.343, No.176), known as The Fiscal  
5 Code.

6 (5) Purchaser or assignee. The following apply:

7 (i) The purchaser or assignee of all or a portion of  
8 a manufacturing tax credit under paragraph (4) must  
9 immediately claim the credit in the taxable year in which  
10 the purchase or assignment is made.

11 (ii) The amount of the manufacturing tax credit that  
12 a purchaser or assignee may use against any one qualified  
13 tax liability may not exceed 50% of the qualified tax  
14 liability for the taxable year.

15 (iii) The purchaser or assignee may not carry  
16 forward, carry back or obtain a refund of or sell or  
17 assign the manufacturing tax credit.

18 (iv) The purchaser or assignee must notify the  
19 Department of Revenue of the seller or assignor of the  
20 manufacturing tax credit in compliance with procedures  
21 specified by the Department of Revenue.

22 Section 1806-G. Penalties.

23 (a) Failure to maintain operations.--A taxpayer which  
24 receives a manufacturing tax credit and fails to substantially  
25 maintain existing operations related to the manufacturing tax  
26 credits in this Commonwealth for a period of at least five years  
27 from the start date must refund to the Commonwealth the total  
28 amount of manufacturing tax credits granted. The Department of  
29 Revenue may issue an assessment, including interest, additions  
30 and penalties, for the total amount of each manufacturing tax

1 credit to be refunded to the Commonwealth.

2 (b) Failure to maintain jobs.--A taxpayer which receives a  
3 manufacturing tax credit and fails to maintain a new job for a  
4 period of at least five years from the start date must refund to  
5 the Commonwealth the total amount of manufacturing tax credits  
6 granted. The Department of Revenue may issue an assessment,  
7 including interest, additions and penalties, for the total  
8 amount of manufacturing tax credits to be refunded to the  
9 Commonwealth.

10 (c) Waiver.--The department may waive the penalties under  
11 subsections (a) and (b) if it is determined that a company's  
12 operations were not maintained or the new jobs were not created  
13 because of circumstances beyond the company's control.

14 Circumstances shall include natural disasters, unforeseen  
15 industry trends or a loss of a major supplier or market.

16 Section 1807-G. Guidelines.

17 The department shall develop and publish guidelines necessary  
18 to implement this article.

19 Section 2. Notwithstanding section 314 of the act of October  
20 25, 2012 (P.L.1664, No.206), known as the Promoting Employment  
21 Across Pennsylvania Act, no agreement under the Promoting  
22 Employment Across Pennsylvania Act may be entered into after  
23 June 30, 2015.

24 Section 3. Repeals are as follows:

25 (1) The General Assembly declares that the repeal under  
26 paragraph (2) is necessary to effectuate the addition of  
27 Article XVIII-G of the act.

28 (2) The act of October 25, 2012 (P.L.1664, No.206),  
29 known as the Promoting Employment Across Pennsylvania Act, is  
30 repealed.



1 Section 4. This act shall take effect as follows:

2 (1) This section shall take effect immediately.

3 (2) Section 3 of this act shall take effect July 1,  
4 2015, or immediately, whichever is later.

5 (3) The remainder of this act shall take effect in 90  
6 days.