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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 351 Session of  
2011

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INTRODUCED BY SONNEY, BARRAR, CAUSER, DENLINGER, EVERETT,  
HUTCHINSON, PYLE AND STEVENSON, JANUARY 31, 2011

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REFERRED TO COMMITTEE ON FINANCE, JANUARY 31, 2011

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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 film production tax credit, further providing  
11 for limitations; and authorizing an onsite use natural gas  
12 well tax credit.

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

15 Section 1. Section 1707-D(a) of the act of March 4, 1971  
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, added July  
17 25, 2007 (P.L.373, No.55), is amended to read:

18 Section 1707-D. Limitations.

19 (a) Cap.--In no case shall the aggregate amount of tax  
20 credits awarded in any fiscal year under this article exceed  
21 [\$75,000,000] \$50,000,000.

22 \* \* \*

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



1 "Qualified tax liability." The liability for taxes imposed  
2 under Article III, IV or VI. The term includes liability for  
3 taxes imposed under Article III on an owner of a pass-through  
4 entity.

5 "Secretary." The Secretary of Revenue of the Commonwealth.

6 "Small business." A Pennsylvania business employing 100 or  
7 fewer employees during the taxable year for which a tax credit  
8 article is sought.

9 "Tax credit." The onsite use natural gas well tax credit  
10 authorized under this article.

11 "Taxpayer." A person or small business subject to tax under  
12 Article III, IV or VI. The term includes the shareholder, owner  
13 or member of a pass-through entity that receives a tax credit.  
14 Section 1703-G. Credit for onsite use natural gas wells.

15 (a) General rule.--A taxpayer that incurs expenses through  
16 drilling and construction of a qualified natural gas well in a  
17 taxable year may apply for a tax credit as provided in this  
18 article. By September 15, a taxpayer must submit an application  
19 to the department for qualified natural gas well expenses  
20 incurred in the taxable year that ended in the prior calendar  
21 year.

22 (b) Amount of tax credit.--A taxpayer that is qualified  
23 under subsection (a) shall receive a tax credit for the taxable  
24 year in the amount of 25% of the total qualified natural gas  
25 well expenses, not to exceed \$1,000,000.

26 (c) Notification to taxpayer.--By December 15 of the  
27 calendar year following the close of the taxable year during  
28 which the qualified natural gas well expenses were incurred, the  
29 department shall notify the taxpayer of the amount of the  
30 taxpayer's tax credit approved by the department.

1 Section 1704-G. Carryover, carryback, refund and assignment of  
2 tax credit.

3 A tax credit is subject to the following provisions:

4 (1) If a taxpayer cannot use the entire amount of the  
5 tax credit for the taxable year in which the tax credit is  
6 first approved, then the excess may be carried over to  
7 succeeding taxable years and used as a credit against the  
8 qualified tax liability of the taxpayer for those taxable  
9 years. Each time that the tax credit is carried over to a  
10 succeeding taxable year, it shall be reduced by the amount  
11 that was used as a credit during the immediately preceding  
12 taxable year. The tax credit may be carried over and applied  
13 to succeeding taxable years for no more than 15 taxable years  
14 following the first taxable year for which the taxpayer was  
15 entitled to claim the credit.

16 (2) The tax credit approved by the department for  
17 qualified natural gas well expenses in a taxable year first  
18 shall be applied against the taxpayer's qualified tax  
19 liability for the current taxable year as of the date on  
20 which the credit was approved before the tax credit is  
21 applied against any tax liability under paragraph (1).

22 (3) A taxpayer is not entitled to assign, carry back or  
23 obtain a refund of an unused tax credit.

24 Section 1705-G. Time limitations.

25 A taxpayer is not entitled to a tax credit for qualified  
26 natural gas well expenses incurred in taxable years ending after  
27 December 31, 2015.

28 Section 1706-G. Limitation on tax credits.

29 (a) Cap.--In no case shall the aggregate amount of tax  
30 credits awarded in any fiscal year exceed \$25,000,000.

1 (b) Proration.--If the total amount of tax credits applied  
2 for by all taxpayers exceeds the amount allocated for those  
3 credits, then the tax credit to be received by each applicant  
4 shall be prorated by the department among all applicants.

5 Section 1707-G. Shareholder, owner or member pass-through.

6 (a) General rule.--If a Pennsylvania S corporation does not  
7 have an eligible tax liability against which the tax credit may  
8 be applied, a shareholder of the Pennsylvania S corporation is  
9 entitled to a tax credit equal to the tax credit determined for  
10 the Pennsylvania S corporation for the taxable year multiplied  
11 by the percentage of the Pennsylvania S corporation's  
12 distributive income to which the shareholder is entitled.

13 (b) Pass-through entities.--If a pass-through entity other  
14 than a Pennsylvania S corporation does not have an eligible tax  
15 liability against which the tax credit may be applied, an owner  
16 or member of the pass-through entity is entitled to a tax credit  
17 equal to the tax credit determined for the pass-through entity  
18 for the taxable year multiplied by the percentage of the pass-  
19 through entities' distributive income to which the owner or  
20 member is entitled.

21 (c) Nature of tax credit.--The tax credit provided under  
22 subsection (a) or (b) is in addition to any tax credit to which  
23 a shareholder, owner or member of a pass-through entity is  
24 otherwise entitled under this article. However, a pass-through  
25 entity and a shareholder, owner or member of a pass-through  
26 entity may not claim a credit under this article for the same  
27 qualified natural gas well expenses.

28 Section 1708-G. Report to General Assembly.

29 The secretary shall submit an annual report to the General  
30 Assembly indicating the effectiveness of the tax credit no later

1 than March 15 following the year in which the tax credits were  
2 approved. The report shall include the names of all taxpayers  
3 utilizing the tax credit as of the date of the report and the  
4 amount of tax credits approved and utilized by each taxpayer.  
5 Notwithstanding any law providing for the confidentiality of tax  
6 records, the information contained in the report shall be public  
7 information. The report may also include any recommendations for  
8 changes in the calculation or administration of the tax credit.  
9 Section 1709-G. Regulations.

10 The secretary, in conjunction with the Department of  
11 Environmental Protection, shall promulgate regulations necessary  
12 for the implementation and administration of this article.

13 Section 3. This act shall apply to taxable years beginning  
14 after December 31, 2011.

15 Section 4. This act shall take effect immediately.