

No. 2006-151

AN ACT

SB 854

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," further providing, in personal income tax, for definitions; and providing for strategic development areas.

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

Section 1. Section 301 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended by adding a clause to read:

Section 301. Definitions.—Any reference in this article to the Internal Revenue Code of 1986 shall mean the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), as amended to January 1, 1997, unless the reference contains the phrase "as amended" and refers to no other date, in which case the reference shall be to the Internal Revenue Code of 1986 as it exists as of the time of application of this article. The following words, terms and phrases when used in this article shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning:

\* \* \*

(i.1) "Health savings account" has the meaning given in section 223(d) of the Internal Revenue Code of 1986, as amended (Public Law 99-514, 26 U.S.C. § 223(d)).

\* \* \*

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

**ARTICLE XXIX-C  
STRATEGIC DEVELOPMENT AREAS**

**PART I  
PRELIMINARY PROVISIONS**

**Section 2901-C. Scope.**

*This article relates to strategic development areas.*

**Section 2902-C. Legislative findings.**

(1) *There exist in this Commonwealth areas of economic distress characterized by high unemployment, low investment of new capital, inadequate dwelling conditions, blighted conditions, underutilized, obsolete*

*or abandoned industrial, commercial and residential structures and deteriorating tax bases.*

*(2) These areas require coordinated efforts by private and public entities to restore prosperity and enable the areas to make significant contributions to the economic and social life of this Commonwealth.*

*(3) Long-term economic viability of these areas requires the cooperative involvement of residents, businesses, State and local elected officials and community organizations. It is in the best interest of the Commonwealth to assist and encourage the creation of strategic development areas and to provide temporary relief from certain taxes within the strategic development areas to accomplish the purposes of this article.*

**Section 2903-C. Definitions.**

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

*“Business.” An association, partnership, corporation, sole proprietorship, limited liability company or employer.*

*“Department.” The Department of Community and Economic Development of the Commonwealth.*

*“Domicile.” The place where a person has a true and fixed home and principal establishment for an indefinite time and to which, whenever absent, that person intends to return. Domicile continues until another place of domicile is established.*

*“Person.” Any natural person.*

*“Political subdivision.” A county, city, borough, township, town or school district with taxing jurisdiction in a defined geographic area within this Commonwealth.*

*“Qualified business.” A business authorized to do business in this Commonwealth which is located or partially located within a strategic development area and is engaged in the active conduct of a trade or business in accordance with the requirements of section 2911-C for the taxable year. An agent, broker or representative of a business is not engaged in the active conduct of trade or business for the business.*

*“Resident.” A person who is domiciled and resides in a strategic development area for a period of 184 consecutive days, which may begin on the date of designation by the department or on the date the person first resides within the strategic development area.*

*“Strategic development area.” A defined geographic area comprised of one or more political subdivisions or portions of political subdivisions designated by the Department of Community and Economic Development under Part III.*

**PART III  
STRATEGIC DEVELOPMENT AREAS**

**Section 2911-C. Strategic development areas.**

*(a) Establishment.—There is hereby established within the department a program providing for strategic development areas.*

*(b) Strategic development area designation.—*

*(1) The Governor may, on or before September 30, 2007, by Executive Order, designate not more than four strategic development areas in this Commonwealth, each of which shall not be less than ten acres of land and not more than 1,500 acres, and the strategic development areas in the aggregate shall not exceed 5,000 acres.*

*(2) No portion of a designated strategic development area shall be used as a licensed facility as defined in 4 Pa.C.S. § 1103 (relating to definitions) or any other similar type of facility authorized under the laws of this Commonwealth.*

*(c) Term of designation.—Persons and businesses within a designated and approved strategic development area that are qualified under this article shall be entitled to all tax exemptions, deductions, abatements or credits set forth in this article for a 15-year period beginning on the date of approval by all political subdivisions as required in section 2913-C or January 1, 2007, whichever occurs last.*

*(d) Approval by political subdivisions.—The designation of a strategic development area and entitlement to the benefits provided in this article shall not be effective unless a strategic development area is approved by all political subdivisions in which it is located, in whole or in part, in accordance with section 2913-C, on or before December 31, 2007.*

**Section 2912-C. Qualified businesses.**

*In order to qualify for tax exemptions, deductions, abatements or credits under this article, a business must own or lease real property in a strategic development area on which the business actively conducts a trade, profession or business involving energy, bioscience or manufacturing, or a related activity, and meet one of the following criteria:*

*(1) Create or maintain a minimum of 500 jobs within the first three years of full operation within the strategic development area.*

*(2) Invest a minimum of \$45,000,000 in capital investment in the property located in the strategic development area within the first three years of full operation.*

**Section 2913-C. Procedure for approval by political subdivisions.**

*(a) Notice to political subdivisions.—The department shall promptly notify political subdivisions in which a designated strategic development area is located.*

*(b) Approval by political subdivisions.—A political subdivision may approve the designation of a strategic development area and grant the exemptions, deductions, abatements or credits for a strategic development area as provided in Part VII by enacting an ordinance, resolution or other*

*required action by the governing body of the political subdivision approving the designation as a strategic development area and exempting or providing the deductions, abatement or credits provided in Part VII to qualified persons and qualified businesses therein. All appropriate ordinances and resolutions must be effective for the period specified in section 2911-C(c) and must be binding and nonrevocable as to the political subdivision. Such political subdivision shall notify the department upon its election to approve the designation of a strategic development area and to grant the benefits provided in Part VII.*

**Section 2914-C. Decertification.**

*(a) Application.—One or more political subdivisions, or a designee of one or more political subdivisions, may apply to the department to decertify and remove the designation as a strategic development area. The application must contain all of the following:*

*(1) An identification of the property to be removed.*

*(2) A copy of an agreement which was supported by consideration in which each entity which possesses an interest in the real property to be removed, including any holder of an option either to purchase the real estate or to enter into a ground lease of the real estate or any other leasehold interest in the real estate, waives the party's right to any exemptions, deductions, abatements or credits granted by this article.*

*(3) A copy of a binding ordinance, resolution or other governing document passed by the political subdivision removing any exemptions, deductions, abatements or credits granted by this article effective upon decertification by the department.*

*(b) Process.—The department may grant the request to decertify and remove the property provided that completed applications have been submitted by all qualified political subdivisions in which the property is located.*

**PART V  
STATE TAXES**

**SUBPART A  
GENERAL PROVISIONS**

**Section 2921-C. State taxes.**

*(a) General rule.—A qualified business or a nonresident under section 2933-C shall receive the exemptions, deductions, abatements or credits as provided in this part for the duration of the strategic development area designation. Exemptions, deductions, abatements or credits shall expire on the date of expiration of the strategic development area designation.*

*(b) Construction.—The Department of Revenue shall administer, construe and enforce the provisions of this part in conjunction with Articles II, III, IV, VI and IX.*

**SUBPART B**  
**PARTICULAR STATE TAXES**

**Section 2931-C. Sales and use tax.**

(a) *Exemption.*—Sales at retail of services or tangible personal property, other than motor vehicles, to a qualified business for the exclusive use, consumption and utilization of the tangible personal property or service by the qualified business at its facility located within a strategic development area are exempt from the sales and use tax imposed under Article II. No person shall be allowed an exemption for sales conducted prior to designation of the strategic development area.

(b) *Construction contracts.*—For any construction contract performed in a strategic development area, the exemption provided in subsection (a) shall only apply to the sale at retail or use of building machinery and equipment to a qualified business, or to a construction contractor pursuant to a construction contract with a qualified business, for the exclusive use, consumption and utilization by the qualified business at its facility in a strategic development area.

**Section 2932-C. Personal income tax.**

(a) *General rule.*—A person shall be allowed an exemption for:

(1) *Net income from the operation of a qualified business received by a resident or nonresident of a strategic development area attributable to business activity conducted within a strategic development area, determined in accordance with section 2935-C, except that any business that operates both within and outside this Commonwealth, before computing its strategic development area exemption, shall first determine its Pennsylvania activity over its activity everywhere by applying the three-factor apportionment formula as set forth in Department of Revenue personal income tax regulations applicable to income apportionment in connection with a business, trade or profession carried on both within and outside this Commonwealth.*

(2) *All of the following:*

(i) *Net gains or income, less net losses, derived by a resident or nonresident of a strategic development area from the sale, exchange or other disposition of real or tangible personal property located in a strategic development area as determined in accordance with accepted accounting principles and practices. The exemption provided in this subparagraph shall not apply to the sale, exchange or other disposition of any stock of goods, merchandise or inventory or any operational assets unless the transfer is in connection with the sale, exchange or other disposition of all of the assets in complete liquidation of a qualified business located in a strategic development area. This subparagraph shall apply to intangible personal property employed in a trade, profession or business in a strategic development area by a qualified business but only when transferred in connection with a sale, exchange or other disposition of all of the*

*assets in complete liquidation of the qualified business in the strategic development area.*

*(ii) Net gains, less net losses, realized by a resident of a strategic development area from the sale, exchange or disposition of intangible personal property or obligations issued on or after February 1, 1994, by the Commonwealth, a public authority, commission, board or other Commonwealth agency, political subdivision or authority created by a political subdivision or by the Federal Government as determined in accordance with accepted accounting principles and practices.*

*(iii) The exemption from income for gain or loss provided for in subparagraphs (i) and (ii) shall be prorated based on the following:*

*(A) In the case of gains, less net losses, in subparagraph (i), the percentage of time, based on calendar days, the property located in a strategic development area was held by a resident or nonresident of the strategic development area during the time period the strategic development area was in effect in relation to the total time the property was held.*

*(B) In the case of gains, less net losses, in subparagraph (ii), the percentage of time, based on calendar days, the property was held by the taxpayer while a resident of a strategic development area in relation to the total time the property was held.*

*(3) Net gains or income derived from or in the form of rents received by a person, whether a resident or nonresident of a strategic development area, to the extent that income or loss from the rental of real or tangible personal property is allocable to a strategic development area. For purposes of calculating this exemption:*

*(i) Net rents derived from real or tangible personal property located in a strategic development area are allocable to a strategic development area.*

*(ii) If the tangible personal property was used both within and without the strategic development area during the taxable year, only the net income attributable to use in the strategic development area is exempt. The net rental income shall be multiplied by a fraction, the numerator of which is the number of days the property was used in the strategic development area and the denominator of which is the total days of use.*

*(4) Dividends received during the time the person was a resident of a strategic development area.*

*(5) Interest received during the time period the person was a resident of a strategic development area.*

*(6) The part of the income or gains received by an estate or trust for its taxable year ending within or with the resident-beneficiary's taxable year which, under the governing instrument and applicable State law, is required to be distributed currently or is in fact paid or credited to the*

*resident-beneficiary and which would have been exempt under this article if received by a resident-beneficiary directly.*

*(b) Pass-through entities.—The exemptions provided for in subsection (a)(1), (2)(i) and (3) shall apply to all of the following:*

*(1) The income or gain of a partnership or association. The partner or member shall be entitled to the exemptions under this section for the partner's or member's share, whether or not distributed, of the income or gain received by the partnership or association for its taxable year.*

*(2) The income or gain of a Pennsylvania S corporation. The shareholder shall be entitled to the exemptions under this section for the shareholder's pro rata share, whether or not distributed, of the income or gain received by the corporation for its taxable year ending within or with the shareholder's taxable year.*

*(c) Limitation.—A partnership, association, Subchapter S corporation, resident or nonresident may not apply an exemption from income under this article for any class of income against any other classes of income or gain. A partnership, association, Subchapter S corporation, resident or nonresident may not carry back or carry forward any exemption under this article from year to year. The credit allowed under this section shall not exceed the tax liability of the taxpayer under Article III for the tax year.*

*(d) Section not applicable to certain entities.—Any portion of net income or gain that is attributable to operation of a railroad, truck, bus or airline company, pipeline or natural gas company, water transportation company or entity which would qualify as a regulated investment company under Article IV or would qualify as a holding company under Article VI shall not be used to calculate an exemption under this section. This subsection shall not apply to the exemption from tax provided in subsection (a)(4).*

*Section 2933-C. Nonresidency considerations.*

*If a nonresident realizes income attributable to business activity or property within a strategic development area on or before the end of the tax year, the person may claim the exemptions from income for the items set forth in section 2932-C for that portion of the tax year that the person was a resident or for that portion of the tax year during which the area is designated as a strategic development area.*

*Section 2934-C. (Reserved).*

*Section 2935-C. Corporate net income tax.*

*(a) Credits.—For the tax years that begin on or after January 1, 2008, a corporation that is a qualified business under this article may claim a credit against the tax imposed by Article IV for tax liability attributable to business activity conducted within the strategic development area in the taxable year. No credit may be claimed for activities conducted prior to designation of the strategic development area. The business activity must be conducted directly by a corporation in the strategic development area in order for the corporation to claim the tax credit.*

*(b) Tax liability determinations.—The corporate tax liability attributable to business activity conducted within a strategic development area shall be determined by multiplying the corporation's taxable income that is attributable to business activity conducted within the strategic development area by the rate of tax imposed under Article IV for the taxable year.*

*(c) Determinations of attributable tax liability.—Tax liability attributable to business activity conducted within a strategic development area shall be computed, construed, administered and enforced in conformity with Article IV and with specific reference to the following:*

*(1) If the entire business of the corporation in this Commonwealth is transacted wholly within the strategic development area, the taxable income attributable to business activity within a strategic development area shall consist of the Pennsylvania taxable income as determined under Article IV.*

*(2) If the entire business of the corporation in this Commonwealth is not transacted wholly within the strategic development area, the taxable income of a corporation in a strategic development area shall be determined upon such portion of the Pennsylvania taxable income of such corporation attributable to business activity conducted within the strategic development area and apportioned in accordance with subsection (d).*

*(d) Income apportionment.—The taxable income of a corporation that is a qualified business shall be apportioned to the strategic development area by multiplying the Pennsylvania taxable income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three, in accordance with the following:*

*(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the strategic development area during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this Commonwealth during the tax period but shall not include the security interest of any corporation as seller or lessor in personal property sold or leased under a conditional sale, bailment lease, chattel mortgage or other contract providing for the retention of a lien or title as security for the sales price of the property.*

*(2) (i) The payroll factor is a fraction, the numerator of which is the total amount paid in the strategic development area during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid in this Commonwealth during the tax period.*

*(ii) Compensation is paid in the strategic development area if:*



*(A) the person's service is performed entirely within the strategic development area;*

*(B) the person's service is performed both within and without the strategic development area, but the service performed without the strategic development area is incidental to the person's service within the strategic development area; or*

*(C) some of the service is performed in the strategic development area and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the strategic development area, or the base of operations or the place from which the service is directed or controlled is not in any location in which some part of the service is performed, but the person's residence is in the strategic development area.*

*(3) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in the strategic development area during the tax period and the denominator of which is the total sales of the taxpayer in this Commonwealth during the tax period.*

*(i) Sales of tangible personal property are in the strategic development area if the property is delivered or shipped to a purchaser that takes possession within the strategic development area regardless of the F.O.B. point or other conditions of the sale.*

*(ii) Sales other than sales of tangible personal property are in the strategic development area if:*

*(A) the income-producing activity is performed in the strategic development area; or*

*(B) the income-producing activity is performed both within and without the strategic development area and a greater proportion of the income-producing activity is performed in the strategic development area than in any other location, based on costs of performance.*

*(e) Computation.—A corporation shall compute its Commonwealth taxable income in conformity with Article IV with no adjustments or subtractions for strategic development area taxable income.*

*(f) Limitation on amount of credit.—The credit allowed under this section shall not exceed the tax liability of the taxpayer under Article IV for the tax year.*

*(g) Section not applicable to certain businesses.—Any portion of the taxpayer's taxable income that is attributable to the operation of a railroad, truck, bus or airline company, pipeline or natural gas company, water transportation company, a corporation that qualifies as a regulated investment company under Article IV or holding company as defined in Article VI shall not be used to calculate a credit under this section.*

*Section 2936-C. Capital stock franchise tax.*

*(a) Credits.—For tax years that begin on or after January 1, 2008, a corporation that is a qualified business under this article may claim a credit against the tax imposed by Article VI for tax liability attributable to the capital employed within the strategic development area in the taxable year. No credit may be claimed for capital employed prior to designation of the real property as part of a strategic development area. The business activity must be conducted directly by a corporation in the strategic development area in order for the corporation to claim the tax credit.*

*(b) Tax liability.—The corporation's tax liability attributable to capital employed within a strategic development area shall be determined by multiplying the corporation's taxable value attributable to capital employed within the strategic development area by the rate of tax imposed under Article VI for the taxable year. The corporation shall compute its Pennsylvania taxable value in conformity with Article VI with no adjustments or subtractions for the capital employed in the strategic development area.*

*(c) Determination of attributable tax liability.—The determination of the corporation's taxable value attributable to the capital employed within a strategic development area shall be determined with specific reference to the following:*

*(1) If the entire business of the corporation in this Commonwealth is transacted wholly within a strategic development area, the taxable value attributable to the capital employed within a strategic development area shall consist of the Pennsylvania taxable value as determined under Article VI.*

*(2) If the entire business of the corporation in this Commonwealth is not wholly transacted within a strategic development area, the taxable value of a corporation in a strategic development area shall be determined upon such portion of the Pennsylvania taxable value attributable to the capital employed within the strategic development area by employing the apportionment factors set forth in section 2935-C(d).*

*(d) Limitation on amount of credit.—The credit allowed under this section shall not exceed the tax liability of the taxpayer under Article VI for the tax year.*

*(e) Credit not available.—Any portion of the taxpayer's tax liability that is attributable to the capital employed in the operation of a railroad, truck, bus or airline company, pipeline or natural gas company, water transportation company, a corporation that qualifies as a regulated investment company under Article IV or holding company as defined in Article VI shall not be used to calculate a credit under this section.*

*Section 2937-C. (Reserved).*

*Section 2938-C. Strategic development area job tax credit.*

*(a) Credits.—For tax years that begin on or after January 1, 2008, an insurance company that is a qualified business under this article may apply to the Department of Revenue for a job tax credit against the tax imposed by Article IX for all full-time jobs within a strategic development area in the taxable year. The job must be held directly with an insurance company in the strategic development area in order for the insurance company to apply for the tax credit. The Department of Revenue will prescribe the form and manner to obtain the credit.*

*(b) Section not applicable to certain insurance companies.—*

*(1) An insurance company that relocates from a location in a political subdivision in this Commonwealth that is not in a strategic development area to a location in a strategic development area may not apply for a credit for an existing job that is transferred, discontinued or lost in this Commonwealth which is attributable to the relocation.*

*(2) An insurance company that has relocated pursuant to paragraph (1) may apply for a strategic development area job tax credit for a new full-time job that is created in the strategic development area. A new full-time job is created with an insurance company if the average monthly employment for that insurance company has increased from the prior 12-month calendar year in the strategic development area.*

*(c) Application of credit.—An insurance company shall apply for a credit by January 15 for the previous calendar year.*

*(d) Apportionment.—The Department of Revenue shall apportion a strategic development area tax credit for an insurance company that is a qualified business that has not operated in a strategic development area for a full fiscal year.*

*(e) Credit determinations.—The strategic development area job tax credit shall be determined by multiplying the monthly average of all full-time jobs by the allowance. The allowance for purposes of the strategic development area job tax credit for taxable years beginning within the dates set forth shall be as follows:*

<i>January 1, 2001, to December 31, 2001</i>	<i>\$500 per job</i>
<i>January 1, 2002, to December 31, 2002</i>	<i>\$750 per job</i>
<i>January 1, 2003, to December 31, 2003</i>	<i>\$1,000 per job</i>
<i>January 1, 2004, to December 31, 2004</i>	<i>\$1,250 per job</i>
<i>January 1, 2005, to December 31, 2005</i>	<i>\$1,250 per job</i>
<i>January 1, 2006, to December 31, 2006</i>	<i>\$1,250 per job</i>
<i>January 1, 2007, to December 31, 2007</i>	<i>\$1,250 per job</i>

<i>January 1, 2008, to December 31, 2008</i>	<i>\$1,250 per job</i>
<i>January 1, 2009, to December 31, 2009</i>	<i>\$1,250 per job</i>
<i>January 1, 2010, to December 31, 2010</i>	<i>\$1,250 per job</i>
<i>January 1, 2011, to December 31, 2011</i>	<i>\$1,250 per job</i>
<i>January 1, 2012, to December 31, 2012</i>	<i>\$1,250 per job</i>
<i>January 1, 2013, to December 31, 2013</i>	<i>\$1,250 per job</i>
<i>January 1, 2014, to December 31, 2014</i>	<i>\$1,250 per job</i>
<i>January 1, 2015, to December 31, 2015</i>	<i>\$1,250 per job</i>
<i>January 1, 2016, to December 31, 2016</i>	<i>\$1,250 per job</i>
<i>January 1, 2017, to December 31, 2017</i>	<i>\$1,250 per job</i>
<i>January 1, 2018, to December 31, 2018</i>	<i>\$1,250 per job</i>
<i>January 1, 2019, to December 31, 2019</i>	<i>\$1,250 per job</i>
<i>January 1, 2020, to December 31, 2020</i>	<i>\$1,250 per job</i>
<i>January 1, 2021, to December 31, 2021</i>	<i>\$1,250 per job</i>
<i>January 1, 2022, to December 31, 2022</i>	<i>\$1,250 per job</i>

*(f) Notification of credit.—By March 15, the Department of Revenue shall notify an insurance company of the amount of the insurance company's tax credit approved.*

*(g) Limitation on amount of credit.—The tax credit allowed under this section shall not exceed 50% of the tax liability of the insurance company under Article IX for the tax year. An insurance company may not carry back or forward any credit received under this section.*

*(h) Allocation.—The total amount of credits approved by the Department of Revenue under this section shall not exceed \$1,000,000 annually. If the credits exceed the \$1,000,000 cap in a given year, the credits will be allocated on a pro rata basis.*

*(i) Calculation of allocation.—If the total amount of strategic development area job tax credits applied for by all insurance companies under this section exceeds \$1,000,000, then the credit to be received by each insurance company shall be the product of \$1,000,000 multiplied by*

*the quotient of the credit applied for by the insurance company divided by the total of all credits applied for by all insurance companies, the algebraic equivalent of which is:*

*insurance company's strategic development area job tax credit = \$1,000,000 X (the amount of strategic development area job tax credit applied for by the insurance company/the sum of all strategic development area job tax credits applied for by all insurance companies).*

*(j) Partnership arrangements.—The jobs tax credit provided for under this section may be allocated to an insurance company that is a partner in such partnership that is also a qualified business in proportion to the full-time jobs within a strategic development area that are provided to such insurance company by the partnership. However, a partnership and a partner of that partnership may not claim any other tax benefit, expense or credit for the same strategic development area job tax credit.*

*(k) Relief from additional retaliatory tax.—The tax credit taken by an insurance company under this section shall not be included in determining liability for retaliatory taxes imposed under section 212 of the act of May 17, 1921 (P.L. 789, No. 285), known as The Insurance Department Act of 1921.*

*(l) Hold-harmless clause.—The tax credits allowed by this section shall not reduce the amounts which would otherwise be payable for firemen's relief pension or retirement purposes or for police pension retirement or disability purposes. The Department of Revenue shall transfer by June 30 of each fiscal year an amount equal to the tax credits taken under this section by foreign fire and casualty insurance companies from the General Fund to the Municipal Pension Aid Fund and the Fire Insurance Tax Fund, as appropriate.*

*Section 2939-C. Strategic development area job creation tax credit.*

*(a) Credits.—For tax years that begin on or after January 1, 2008, a railroad, truck, bus or airline company, pipeline or natural gas company or water transportation company that is required to apportion income in accordance with section 401(3)2(b), (c) or (d) and is a qualified business under this article may apply to the Department of Revenue for a strategic development area job creation tax credit against the tax imposed by Article III, IV or VI. The credit shall be for all full-time jobs created within a strategic development area in the taxable year. The job must be held directly with the qualified business in the strategic development area in order for the qualified business to apply for the tax credit. The Department of Revenue shall prescribe the form and manner to obtain the credit.*

*(b) Section not applicable to certain businesses or qualified businesses.—*

*(1) A business that relocates from a location in a political subdivision in this Commonwealth that is not in a strategic development area to a location in a strategic development area may not apply for a*

*credit for an existing job that is transferred, discontinued or lost in this Commonwealth which is attributable to the relocation.*

*(2) A business that has relocated pursuant to paragraph (1) and becomes a qualified business may apply for a strategic development area job creation tax credit for a new full-time job that is created in the strategic development area. A new full-time job is created with a qualified business if the average monthly employment for that qualified business has increased from the prior 12-month calendar year in the strategic development area.*

*(c) Application of credit.—A qualified business shall apply for a credit under this section by January 15 for the previous calendar year.*

*(d) Apportionment.—The Department of Revenue shall apportion a strategic development area job creation tax credit for a business that is a qualified business that has not operated in a strategic development area for a full fiscal year.*

*(e) Credit determinations.—The strategic development area job creation tax credit shall be determined by multiplying the monthly average of all full-time jobs by the allowance. The allowance for purposes of the strategic development area job creation tax credit for taxable years beginning within the dates set forth shall be as follows:*

<i>January 1, 2001, to December 31, 2001</i>	<i>\$500 per job</i>
<i>January 1, 2002, to December 31, 2002</i>	<i>\$750 per job</i>
<i>January 1, 2003, to December 31, 2003</i>	<i>\$1,000 per job</i>
<i>January 1, 2004, to December 31, 2004</i>	<i>\$1,250 per job</i>
<i>January 1, 2005, to December 31, 2005</i>	<i>\$1,250 per job</i>
<i>January 1, 2006, to December 31, 2006</i>	<i>\$1,250 per job</i>
<i>January 1, 2007, to December 31, 2007</i>	<i>\$1,250 per job</i>
<i>January 1, 2008, to December 31, 2008</i>	<i>\$1,250 per job</i>
<i>January 1, 2009, to December 31, 2009</i>	<i>\$1,250 per job</i>
<i>January 1, 2010, to December 31, 2010</i>	<i>\$1,250 per job</i>
<i>January 1, 2011, to December 31, 2011</i>	<i>\$1,250 per job</i>
<i>January 1, 2012, to December 31, 2012</i>	<i>\$1,250 per job</i>

January 1, 2013, to December 31, 2013	\$1,250 per job
January 1, 2014, to December 31, 2014	\$1,250 per job
January 1, 2015, to December 31, 2015	\$1,250 per job
January 1, 2016, to December 31, 2016	\$1,250 per job
January 1, 2017, to December 31, 2017	\$1,250 per job
January 1, 2018, to December 31, 2018	\$1,250 per job
January 1, 2019, to December 31, 2019	\$1,250 per job
January 1, 2020, to December 31, 2020	\$1,250 per job
January 1, 2021, to December 31, 2021	\$1,250 per job
January 1, 2022, to December 31, 2022	\$1,250 per job

**(f) Notification of credit.**—By March 15, the Department of Revenue shall notify the qualified business of the amount of the qualified business's job creation tax credit approved.

**(g) Limitation on amount of credit.**—The tax credit allowed under this section shall only be used to offset a tax liability incurred from strategic development area activities and shall not exceed 50% of the tax liability of a qualified business or person under Article III, IV or VI for the tax year. The job creation tax credit may not carry back or forward to any other year.

**(h) Allocation.**—The total amount of credits approved by the Department of Revenue under this section shall not exceed \$1,000,000 annually. If the credits exceed the \$1,000,000 cap in a given year, the credits will be allocated on a pro rata basis.

**(i) Calculation of allocation.**—If the total amount of strategic development area job creation tax credits applied for by all qualified businesses under this section exceeds \$1,000,000, then the credit to be received by each qualified business shall be the product of \$1,000,000 multiplied by the quotient of the credit applied for by the qualified business divided by the total of all credits applied for by all qualified businesses, the algebraic equivalent of which is:

qualified business strategic development area job creation tax credit  
= \$1,000,000 X (the amount of strategic development area job creation tax credit applied for by the qualified business/the sum of all strategic development area job creation tax credits applied for by all qualified businesses).

*(j) Pass-through entities.—The strategic development area job creation tax credit shall apply to the following:*

*(1) A partner or member of a partnership or association that qualifies under this section shall be entitled to a job creation tax credit in proportion to the partner's or member's share, whether or not distributed, of the income or gain received by the partnership or association for its taxable year.*

*(2) A shareholder of a Pennsylvania S corporation that qualifies under this section shall be entitled to a job creation tax credit in proportion to the shareholder's pro rata share, whether or not distributed, of the income or gain received by the corporation for its taxable year ending within or with the shareholder's taxable year.*

*(3) No partnership, association or Pennsylvania S corporation, or partner, member or shareholder, may claim any other tax benefit, expense or credit for the same strategic development area job creation tax credit.*

## PART VII LOCAL TAXES

### *Section 2941-C. Local taxes.*

*Every political subdivision in which a designated strategic development area is located shall exempt, deduct, abate or credit local taxes in accordance with ordinances and resolutions adopted under section 2911-C(c). Failure to exempt, deduct, abate or credit local taxes shall result in the revocation of the strategic development area designation.*

### *Section 2942-C. Real property tax.*

*(a) General rule.—Notwithstanding the act of May 22, 1933 (P.L.853, No.155), known as The General County Assessment Law, and the act of May 21, 1943 (P.L.571, No.254), known as The Fourth to Eighth Class County Assessment Law, each qualified political subdivision for taxable years beginning after December 31, 2006, shall by ordinance or resolution abate 100% of the real property taxation on the assessed valuation of deteriorated property in an area designated as a strategic development area within this Commonwealth.*

*(b) Application for tax abatement.—Any person requesting real property tax abatement pursuant to ordinances or resolutions adopted pursuant to this article shall notify each county or other designated assessment office granting such abatement in writing on a form provided by that assessment office within 30 days of the designation as a strategic development area or within 30 days of the transfer of ownership of the real property subject to abatement. A copy of the abatement request shall be forwarded by the county or other designated assessment office to the political subdivision.*

*(c) Annual real property report.—Every strategic development area shall submit to the department an annual report by January 31 of each*



*calendar year of all real property located in a designated strategic development area and the owners and addresses of that real property at any time during the preceding year.*

*(d) Interest and penalties.—If the department or a political subdivision finds that a person claimed an abatement of real property tax to which the person was not entitled under this article, the person shall be liable for the abated taxes and subject to the applicable interest and penalty provisions provided by law.*

*(e) Calculations for education subsidy for school districts.—In determining the market value of real property in each school district, the State Tax Equalization Board shall exclude any increase in value above the base value prior to the effect of the abatement of local taxes to the extent and during the period of time that real estate tax revenues attributable to such increased value are not available to the school district for general school district purposes.*

**Section 2943-C. Local earned income and net profits taxes; business privilege taxes.**

*(a) General exemption.—To the extent that a qualified political subdivision has enacted any tax on the privilege of engaging in any business or profession, measured by gross receipts or on a flat rate basis, earned income or net profits, as defined in the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, imposed within the boundaries of a strategic development area, such qualified political subdivision shall be exempt from the imposition or operation of such local tax ordinances, statutes, regulations or otherwise:*

*(1) The business gross receipts for operations conducted by a qualified business within a strategic development area.*

*(2) The earned income received by a resident of a strategic development area.*

*(3) The net profits of a qualified business received by a resident or nonresident of a strategic development area attributable to business activity conducted within a strategic development area.*

*(b) Additional exemptions.—To the extent that a qualified political subdivision has:*

*(1) pursuant to the act of August 5, 1932, (Sp.Sess. P.L.45, No.45), referred to as the Sterling Act, the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, the act of August 24, 1961 (P.L.1135, No.508), referred to as the First Class A School District Earned Income Tax Act, the act of August 9, 1963 (P.L.640, No.338), entitled "An act empowering cities of the first class, coterminous with school districts of the first class, to authorize the boards of public education of such school districts to impose certain additional taxes for school district purposes, and providing for the levy, assessment and collection of such taxes," the act of May 30, 1984 (P.L.345, No.69), known as the First Class City Business Tax Reform Act, or the act of*

*June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class, enacted a tax on:*

- (i) the privilege of engaging in a profession or business;*
- (ii) wages or compensation;*
- (iii) net profits from the operation of a business, profession or other activity; or*
- (iv) the occupancy or use of real property.*

*(2) The qualified political subdivision shall provide an exemption, deduction, abatement or credit from the imposition and operation of such local tax ordinance or resolution to all of the following:*

*(i) A person or qualified business, whether a resident or a nonresident of a strategic development area, for the privilege of engaging in a business or profession within a strategic development area.*

*(ii) Salaries, wages, commissions, compensation or other income received for services rendered or work performed by a resident of a strategic development area.*

*(iii) The gross or net income or gross or net profits realized from the operation of a qualified business to the extent attributable to business activity conducted within a strategic development area.*

*(iv) The occupancy or use of real property located within the strategic development area.*

*(c) Limitation on withholding.—Every employer required to withhold any local tax on the earned income, wages or compensation of one or more persons within the particular political subdivision shall not withhold such tax on earned income, wages or compensation paid to any person or his personal representative during any period when the qualified political subdivision has by ordinance or resolution provided for the exemption from tax as provided in section 2941-C and the person is a resident of a strategic development area.*

*(d) Information for employer.—Every person who is an employee that qualifies as a resident of a strategic development area shall furnish to his or her employer information, as prescribed by the political subdivision, necessary for the employer to withhold the correct amount of tax. An employee shall furnish notification to his or her employer of any changes to the information within 20 days after the change. An employee shall notify his or her employer that the employee has completed the residency requirements under this article.*

*(e) Duty of employer.—Within 20 days after an employer receives information from an employee pursuant to subsection (d), the employer shall forward a copy of that information to the political subdivision or other agency designated by the political subdivision. The information shall not be given retroactive effect for withholding purposes. The employer shall not be required to withhold tax from the wages, earned income or*

*compensation paid to a resident of a strategic development area, if reasonable under the circumstances, unless directed by the political subdivision to withhold tax from the wages, earned income or compensation on some other basis. If an employee fails or refuses to furnish the information or furnishes information that the employer reasonably and in good faith believes to be inaccurate, the employer shall withhold the full rate of tax from the employee's total wages, earned income or compensation.*

*(f) Calculation for education subsidy for school district.—In determining the personal income valuation of a school district, the Secretary of Revenue shall exclude any increase in the valuation as defined in section 2501(9.1)<sup>1</sup> of the Public School Code of 1949 above the base value prior to the abatement of local taxes in a strategic development area located within the school district to the extent and during the period of time that personal income revenues attributable to the increase in the personal income valuation are not available to the school district for general school district purposes.*

*Section 2944-C. Mercantile license tax.*

*No person or qualified business in a strategic development area shall be required to pay any fee authorized pursuant to a mercantile license tax imposed under the act of June 20, 1947 (P.L.745, No.320), entitled, as amended, "An act to provide revenue for school districts of the first class A by imposing a temporary mercantile license tax on persons engaging in certain occupations and businesses therein; providing for its levy and collection; for the issuance of mercantile licenses upon the payment of fees therefor; conferring and imposing powers and duties on boards of public education, receivers of school taxes and school treasurers in such districts; saving certain ordinances of council of certain cities, and providing compensation for certain officers, and employes and imposing penalties."*

*Section 2945-C. Local sales and use tax.*

*(a) General rule.—The political subdivision shall exempt sales at retail of services or tangible personal property, except motor vehicles, to a qualified business for the exclusive use, consumption and utilization of the tangible personal property or service by the qualified business at its facility located within a strategic development area from a city or county tax on purchase price authorized under Article XXXI-B of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, and the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.*

*(b) Real property.—The exemption provided in subsection (a) shall apply to the sale at retail of building machinery and equipment to a qualified business, or to a construction contractor pursuant to a construction contract with a qualified business for the exclusive use,*

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<sup>1</sup>"section 22921-C(9.1)" in enrolled bill. Section 22921-C does not exist.

*consumption and utilization by the qualified business at its facility in a strategic development area.*

*(c) Definition.—Sales at retail of tangible personal property and services shall be defined in accordance with Article II.*

## **PART IX ADMINISTRATION OF TAX PROVISIONS**

### **Section 2951-C. Transferability.**

*Any exemption, deduction, abatement or credit provided to any person or qualified business under Parts V and VII is nontransferable and cannot be applied, used or assigned to any other person, business or tax account.*

### **Section 2952-C. Recapture.**

*(a) General rule.—If any qualified business located within a strategic development area has received an exemption, deduction, abatement or credit under this article and subsequently relocates outside of the strategic development area within the first five years of locating in a strategic development area, that business shall refund to the State, which granted the exemption, deduction, abatement or credit received, in accordance with the following:*

*(1) If a qualified business relocates within three years from the date of first locating in a strategic development area, 66% of all the exemptions, deductions, abatements or credits attributed to that qualified business's participation in the strategic development area shall be refunded to the Commonwealth.*

*(2) If a qualified business relocates within three to five years from the date of first locating in a strategic development area, 33% of all exemptions, deductions, abatements or credits attributed to that qualified business's participation in the strategic development area shall be refunded to the Commonwealth.*

*(3) If the qualified business was located within a facility operated by a nonprofit organization to assist in the creation and development of a start-up business, no exemption, deduction, abatement or credit shall be refunded.*

*(b) Waiver.—The department may waive or modify recapture requirements under this section if the department determines that the business relocation was due to circumstances beyond the control of the business, including, but not limited to:*

- (1) natural disaster;*
- (2) unforeseen industry trends; or*
- (3) loss of a major supplier or market.*

### **Section 2953-C. Delinquent or deficient State or local taxes.**

*(a) Persons.—No person may claim or receive an exemption, deduction, abatement or credit under this article unless that person is in full compliance with all State and local tax laws, ordinances and resolutions.*

**(b) Qualified business.—**

**(1) No qualified business may claim or receive an exemption, deduction, abatement or credit under this article unless that qualified business is in full compliance with all State and local tax laws, ordinances and resolutions.**

**(2) No qualified business may claim or receive an exemption, deduction, abatement or credit under this article if any person or business with a 20% or greater interest in that qualified business is not in full compliance with all State and local tax laws, ordinances and resolutions.**

**(c) Later compliance and eligibility.—Any person or qualified business that is not eligible to claim an exemption, deduction, abatement or credit due to noncompliance with any State or local tax law may become eligible if that person or qualified business subsequently comes into full compliance with all State and local tax laws to the satisfaction of the Department of Revenue or the political subdivision within the calendar year in which the noncompliance first occurred. If full compliance is not attained by February 5 of the calendar year following the calendar year during which noncompliance first occurred, then that person or qualified business is precluded from claiming any exemption, deduction, abatement or credit for that calendar year, whether or not full compliance is achieved subsequently.**

**Section 2954-C. Code compliance.**

**(a) General rule.—A person or qualified business shall be precluded from claiming any exemption, deduction, abatement or credit provided for in this article if that person or qualified business owns real property in a strategic development area and the real property is not in compliance with all applicable State and local zoning, building and housing laws, ordinances or codes.**

**(b) Opportunity to achieve compliance.—The person or qualified business who is not in compliance under subsection (a) shall have until December 31 of the calendar year following designation of the real property as part of a strategic development area to be in compliance in order to claim any State exemptions, deductions, abatements or credits for that year. If full compliance is not attained by December 31 of that calendar year, the person or qualified business is precluded from claiming any exemption, deduction or credit for that calendar year, whether or not compliance is achieved in a subsequent calendar year. The political subdivision may extend the time period in which a person or qualified business must come into compliance with a local ordinance or building code for a period not to exceed one year if the political subdivision determines that the person or qualified business has made and shall continue to make a good faith effort to come into compliance and that an extension will enable the person or qualified business to achieve full compliance. Qualified political subdivisions are required to notify the**

*Department of Revenue in writing of all persons or qualified businesses not in compliance with this subsection within 30 days following the end of each calendar year.*

**Section 2955-C. Appeals.**

*A person or qualified business shall be deemed to be in compliance with any State or local tax for purposes of this section if that person or qualified business had made a timely administrative or judicial appeal for that particular tax or has entered into and is in compliance with a duly authorized deferred payment plan with the Department of Revenue or political subdivision for that particular tax.*

**Section 2956-C. Notice requirements; State and local authorities.**

(a) *Requirement.*—*After compliance reviews have been conducted by appropriate Commonwealth and local authorities, the department shall notify each strategic development area applicant by regular mail each year of the department's approval or denial of the strategic development area application. No strategic development area applicant is entitled to any tax benefits unless it receives approval from the department.*

(b) *Notice.*—*The department shall provide a one-time notification to every current strategic development area property owner within 15 days of designation by the Governor. Failure to receive departmental notification under this section shall not extend or restrict any benefits or rights real property owners possess under this article.*

(c) *Transmittal.*—*The department or its designated official shall, within 15 business days of receipt of a strategic development area application made under this article, forward a copy of the application to appropriate Commonwealth and local authorities for review and processing.*

**Section 2957-C. Application time.**

*An applicant must file an application in a manner prescribed by the department by December 31 of each calendar year for which the applicant claims any exemption, deduction, abatement or credit under this article. No exemption, deduction, abatement or credit may be claimed or received for that calendar year until approval has been granted by the department.*

**PART XI**  
**(Reserved)**

**PART XIII**  
**MISCELLANEOUS PROVISIONS**

**Section 2971-C. Illegal activity.**

*Any funds or other forms of consideration received by a person or business conducting any type of illegal activity shall not be eligible for any of the exemptions, deductions, abatements and credits or any other benefits that are created under this article.*

**Section 2972-C. Rules and regulations.**

*The department may promulgate regulations necessary to effectuate the provisions of this article.*

**Section 2973-C. Compliance.**

*Any person or qualified business eligible for an exemption, deduction or credit under this article shall comply with all reporting, filing and compliance requirements pursuant to this act unless otherwise provided for in this article.*

**Section 2974-C. Penalties.**

**(a) Civil penalty.—**

*(1) In addition to any penalties authorized by this act, the Department of Revenue may impose an additional administrative penalty not to exceed \$10,000 for any act or violation of this article relating to State and local taxes, including the filing of any false statement, return or document.*

*(2) The department may impose a civil penalty not to exceed \$10,000 for a violation of this article, including the filing of any false statement, return or document.*

**(b) Criminal penalty.—***In addition to any criminal penalty under this act, any person or business who knowingly violates any of the provisions of this article commits a misdemeanor of the third degree.*

**Section 2975-C. Construction.**

*This article shall be interpreted to ensure that all provisions relating to State tax exemptions, deductions, abatement and credits are strictly construed in favor of the Commonwealth.*

**Section 2976-C. Applicability.**

*The provisions of this article shall be applied prospectively. No person or business may claim any exemption, deduction, abatement or credit until that person or business becomes qualified under this article and, in the case of a business, receives certification from the department that the business is qualified.*

**Section 2977-C. Severability.**

*The provisions of this article are severable. If any provision of this article or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application.*

**Section 2978-C. Repeals.**

*All acts and parts of acts are repealed insofar as they are inconsistent with this article.*

**Section 2979-C. Expiration.**

*This article and all benefits associated with this article shall terminate December 31, 2022.*

Section 3. This act shall take effect immediately.

APPROVED—The 20th day of November, A.D. 2006.

EDWARD G. RENDELL