

No. 2019-65

AN ACT

SB 478

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," providing for beginning farmer tax credit.

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

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

**ARTICLE XVIII-H
TAX CREDITS RELATING TO BEGINNING FARMERS**

Section 1801-H. Scope of article.

This article relates to the tax credits to owners of agricultural assets who sell or rent agricultural assets to beginning farmers.

Section 1802-H. 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:

"Agricultural assets." Agricultural land, livestock, facilities, buildings and machinery used for farming.

"Agricultural production." As defined in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law.

"Beginning farmer." A person who:

(1) Has demonstrated experience in the agriculture industry or related field or has transferable skills as determined by the department.

(2) Has not received Federal gross income from agricultural production for more than the 10 most recent taxable years.

(3) Intends to engage in agricultural production within the borders of this Commonwealth and to provide the majority of the labor and management involved in that agricultural production.

(4) Has obtained written certification from the department confirming beginning farmer status.

(5) Is not, and whose spouse is not, a partner, member, shareholder or trustee of the owner of agricultural assets from whom the person seeks to purchase or rent agricultural assets.

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

"Farm." Real property on which farming occurs.

"Farming." *The active use, management and operation of real and personal property for agricultural production.*

"Lease." *A written agreement between parties for the lease of real property on which farming occurs.*

"Owner of agricultural assets." *An individual, trust or pass-through entity that is the owner in fee of agricultural land or has legal title to any other agricultural asset. The term does not include an equipment dealer, livestock dealer or comparable entity that is engaged in the business of selling agricultural assets for profit and that is not engaged in farming as its primary business activity.*

"Tax credit." *A tax credit established by this article.*

Section 1803-H. Beginning farmer management tax credit.

(a) **General rule.**—*An owner of agricultural assets may take a credit against the tax due under Article III for the sale or rental of agricultural assets to a beginning farmer in the amount approved by the department. An owner of agricultural assets is eligible for allocation of a tax credit equal to:*

(1) *five percent of the lesser of the sale price or the fair market value of the agricultural asset, up to a maximum of \$32,000; or*

(2) *ten percent of the gross rental income in each of the first, second and third years of a rental agreement, up to a maximum of \$7,000 per year.*

(b) **Application.**—

(1) *The tax credit may be claimed only after approval and certification by the department and is limited to the amount stated on the certificate issued under section 1804-H.*

(2) *An owner of agricultural assets must apply to the department for approval of a tax credit, in a form and manner prescribed by the department. The application shall:*

(i) *identify the beginning farmer who has been certified by the department under paragraph (3) and to whom the agricultural assets are sold or rented; and*

(ii) *specify whether the beginning farmer is a brother, sister, ancestor or lineal descendant of the applicant.*

(3) *A person may apply to the department for certification that the person is a beginning farmer for purposes of this article. The application shall be in a form and manner prescribed by the department and shall require that the applicant provide:*

(i) *Projected earnings statements to demonstrate the profit potential for the farming conducted by the applicant.*

(ii) *Verification that the farming conducted by the applicant will be a significant source of income for the applicant.*

(iii) *Verification that the applicant will, if certified as a beginning farmer by the department, notify the department if the farmer no longer meets the certification and eligibility requirements within the three-year certification period, in which case eligibility for tax credits ends.*

(iv) *Verification that the applicant is not engaged in farming by means of a joint business venture.*

(v) *Verification and documentation as necessary to meet other eligibility requirements as may be established by the department.*

(c) *Termination of rental agreement.—*

(1) *An owner of agricultural assets or a beginning farmer may terminate a rental agreement for reasonable cause upon approval of the department.*

(2) *If a rental agreement is terminated without the fault of the owner of agricultural assets, the tax credits shall not be retroactively disallowed.*

(3) *In determining reasonable cause, the department shall consider which party was at fault in the termination of the agreement.*

(4) *If the department determines the owner of agricultural assets did not have reasonable cause, the owner of agricultural assets must repay all tax credits received as a result of the rental agreement to the Commonwealth. The repayment is additional income tax for the taxable year in which the department makes its decision.*

(d) *Duration of tax credit.—The credit is limited to the liability for tax as computed under Article III for the taxable year. The tax credit may not be sold, passed through, carried forward or refunded. No credits granted under this section shall be applied against any tax withheld by an employer from an employee under Article III.*

Section 1804-H. Approval of tax credit.

(a) *General rule.—The tax credit may be claimed only after approval and certification by the department. The department shall review the application of a tax credit in consultation with the Department of Agriculture.*

(b) *Tax clearance.—Before an application is approved, the Department of Revenue must find that the applicant has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement or assessment or as otherwise determined by the Department of Revenue.*

Section 1805-H. Departmental duties.

(a) *Duties.—The department shall:*

(1) *Share information with the Secretary of Revenue to the extent necessary to administer provisions under this article and Article III.*

(2) *Annually notify the Secretary of Revenue of approval and certification or recertification of beginning farmers and owners of agricultural assets under this section. For tax credits under section 1803-H, the notification must include the amount of tax credit approved by the department and stated on the tax credit certificate.*

(b) *Validity of certification.—The certification of a beginning farmer or an owner of agricultural assets under this article is valid for the year of the certification and the two following years, after which time the beginning farmer or owner of agricultural assets must apply to the department for recertification.*

(c) *Limitation on amount.—*

(1) *For tax credits for owners of agricultural assets allowed under section 1803-H, the department may allocate no more than \$5,000,000 for the taxable year beginning after December 31, 2019, and may*

allocate no more than \$6,000,000 for the taxable years beginning after December 31, 2020.

(2) The department shall allocate tax credits on a first-come, first-served basis beginning on January 1 of each year, except that recertifications for the second and third years of tax credits under section 1803-H(a)(1) and (2) have first priority. Any amount authorized but not allocated in any taxable year does not cancel and is added to the allocation for the next taxable year.

Section 1806-H. Report.

(a) Duty to report.—No later than February 1, 2025, the department, in consultation with the Secretary of Revenue, shall provide a report to the General Assembly on the tax credits issued in tax years beginning after December 31, 2019.

(b) Contents of report.—

(1) The report must include background information on beginning farmers and any other information the department finds relevant to evaluating the effect of the tax credits on increasing opportunities for and the number of beginning farmers.

(2) For tax credits issued under section 1803-H(a), the report shall include:

(i) The number and amount of tax credits issued under each paragraph.

(ii) The geographic distribution of tax credits issued under each paragraph.

(iii) The type of agricultural assets for which tax credits were issued under section 1803-H(a)(1).

(iv) The number and geographic distribution of beginning farmers whose purchase or rental of assets resulted in tax credits for the seller or owner of the asset.

(v) The number and amount of tax credits disallowed under section 1803-H(d).

(vi) Data on the number of beginning farmers by geographic region in the tax years covered in the report.

(vii) The number and amount of tax credit applications that exceeded the allocation available in each year.

Section 1807-H. Expiration.

This article shall expire for taxable years beginning after December 31, 2029.

Section 2. This act shall take effect in 60 days.

APPROVED—The 2nd day of July, A.D. 2019

TOM WOLF