

No. 2006-65

AN ACT

HB 153

Relating to organ and bone marrow donation; providing for a special leave of absence for organ and bone marrow donors; and providing for a tax credit and for additional duties of the Department of Revenue.

The General Assembly finds as follows:

(1) Each year an estimated 16,000 Americans contract leukemia, aplastic anemia or other fatal blood diseases.

(2) If a matched bone marrow donor can be found, many of these victims can be cured.

(3) There is now a National Marrow Donor Program, and the United States is working with 30 other countries to establish a worldwide registry.

(4) Marrow donation does not involve considerable risk to the donor.

(5) There are approximately 65,000 patients in the United States and approximately 3,500 patients in this Commonwealth awaiting lifesaving organ transplants.

(6) Many patients awaiting organ transplants could benefit from living organ donation, including approximately 43,000 kidney patients, 7,000 liver patients and 3,500 lung patients.

(7) Of the more than 1,500 organ transplants performed in this Commonwealth in 1998, approximately 250 were from living donors.

(8) There continues to be a great need for bone marrow and organ donors among the African-American, Asian, Native American and Hispanic communities.

(9) Potential living bone marrow and organ donors should be able to perform their lifesaving service without risk of loss of income or employment.

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

Section 1. Short title.

This act shall be known and may be cited as the Organ and Bone Marrow Donor Act.

Section 2. Definitions.

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

“Business firm.” An entity authorized to do business in this Commonwealth and subject to the taxes imposed by Article III, IV, VI, VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6, No.2), known as the Tax

Reform Code of 1971. This term also includes a natural person as such or as a member of a partnership or a shareholder in a Pennsylvania S corporation and estates and trusts receiving income as set forth in section 3.

“Department.” The Department of Revenue of the Commonwealth.

“Leave of absence period.” The period, not exceeding five working days or the hourly equivalent of five working days per employee, during which a business firm provides a paid leave of absence to the employee for the purpose of organ or bone marrow donation. The term does not include a period during which an employee utilizes any annual leave or sick days that the employee has been given by the employer.

“Pass-through entity.” A partnership or Pennsylvania S corporation as defined in section 301(n.0) and (s.2), respectively, of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

Section 3. Organ and bone marrow donor tax credit.

(a) Qualification.—

(1) Except as set forth in paragraph (2), every business firm which provides one or more paid leaves of absence to employees for the specific purpose of organ or bone marrow donation shall qualify for the organ or bone marrow donor tax credit. A business firm which qualifies for the credit may apply that credit against any tax due under Article III, IV, VI, VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(2) Notwithstanding paragraph (1), the credit shall not be applied against any tax withheld by an employer from an employee under Article III of the Tax Reform Code of 1971.

(b) Calculation of credit.—

(1) The tax credit amount shall be equal to the amount of employee compensation paid during the leave of absence period, the cost of temporary replacement help, if any, during the leave of absence period and any miscellaneous expenses authorized by regulation that are incurred in connection with the leave of absence period. Credits calculated for a business firm subject to tax in another state shall be apportioned to this Commonwealth in the manner specified by regulation.

(2) If the employee on paid leave of absence is employed by a business firm organized as a pass-through entity, the credit shall be calculated in proportion to the member's or shareholder's portion of the pass-through entity's income. In the case of a trust or estate with income credited to or distributed to a beneficiary, the credit shall be measured in proportion to the beneficiary's share of income.

(c) Unused credit.—Credits not used for the taxable year during which a leave of absence was granted may be carried over for three taxable years. Credits shall not be carried back against preceding taxable years and shall not be refundable.

Section 4. Duties of department.

(a) Duties enumerated.—The department shall:

(1) In the manner provided by law, promulgate the regulations necessary to implement section 3.

(2) Create and publish forms upon which taxpayers may apply for the tax credit authorized by this act.

(3) Within five months after the close of any calendar year during which tax credits granted pursuant to this act were used, furnish to the members of the General Assembly an annual report providing, as to each business firm which used tax credits during the preceding calendar year pursuant to this act, the employer's name, address, standard industrial classification code and the amount of tax credits granted.

(b) Certain provisions not to apply.—The provisions of sections 353(f) and 408(b) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, relating to confidentiality of information, and any other provisions of law preventing the disclosure of information required under subsection (a)(3), shall not apply when the information is divulged for the purposes of subsection (a)(3).

Section 5. Procedures.

(a) Deadline for filing applications.—Applications for tax credits shall be filed not later than the 15th day of the fourth month following the close of the business firm's taxable year.

(b) Notification of tax credit authorization and incomplete applications.—

(1) The department shall notify the business firm regarding the authorization of tax credits, including the amount of the credit available.

(2) The department may return an incomplete application to the business firm or request additional information, documents or signatures from the business firm.

(3) An application shall be complete and processible only if it is signed by an authorized representative of the business firm and contains the individual's or entity's name, identifying numbers, address and sufficient proof, which the department may require at its discretion, including written verification by a physician or similar documentation of the length and purpose of the donor's leave and the amount of the employee's compensation and costs associated with temporary replacement help and proof that temporary replacement help is needed because of the donor's leave.

(c) Appeals.—Appeals from determinations made pursuant to this act shall be made through the administrative provisions of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, applicable to the particular taxes against which the business firm or its members, shareholders or beneficiaries claim such credits.

Section 6. Applicability.

This act shall apply to tax years commencing on or after January 1, 2006, through any taxable year commencing within 2010, and carryover credits provided for in section 3(c) may be used after 2010.

Section 7. Effective date.

This act shall take effect immediately.

APPROVED—The 2nd day of July, A.D. 2006.

EDWARD G. RENDELL