

LAWS OF DELAWARE
VOLUME 83
CHAPTER 440
151st GENERAL ASSEMBLY
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 301

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO ORGAN TRANSPLANTATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 30 of the Delaware Code by adding a new Chapter 20E and by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 20E. Organ and Bone Marrow Transplantation Tax Credit

§ 20E-101. Declaration of purpose.

The purpose of this chapter is to provide incentives for resident individuals of Delaware to donate organs and bone marrow for transplantation and for Delaware employers to grant paid time off to such individuals who donate organs and bone marrow for transplantation.

§20E-102. Definitions.

For purposes of this chapter:

(1) “Gross wages” means that part of the sum reported on Form W-2, or equivalent form of the United States Department of Treasury, Internal Revenue Service as “Medicare wages and tips” that is attributable to Delaware sources.

(2) “Qualified employer” means an employer located in Delaware which employs a donor and who granted that employee paid time off for the purpose of the transplantation, in addition to traditional paid time off granted to the person.

(3) “Donor” means a resident of Delaware donating one or more human organs, or a part thereof, or bone marrow, to another human for human organ transplantation.

(4) “Traditional paid time off” means amounts paid to a donor as employee sick time, vacation time, worker’s compensation benefits, disability benefits, or pursuant to Chapter 37 of Title 19.

§ 20E-103. Tax credit for expenses associated with human organ or bone marrow donation.

(a) A donor is allowed as a credit against the tax imposed by Chapter 11 of this title an amount not to exceed \$10,000 of unreimbursed expenses specified in subsection (b) of this section if, while living, the taxpayer or a dependent of the taxpayer donates one or more human organs, or a part thereof, or bone marrow, to another human for human organ transplantation. Notwithstanding anything in Chapter 11 of this title to the contrary, unreimbursed expenses claimed by a donor as a credit against tax as allowed in this chapter may not be included as itemized deductions for the donor as otherwise allowable under Chapter 11 of this title.

(b) The tax credit allowed under this section may be claimed for:

(1) Medical, travel, and lodging expenses paid by the donor to the extent such expenses are reasonable in amount, related to the donation, and not reimbursable by the donor.

(2) The donor’s lost wages related to the donation, net of any amounts paid or payable to the donor relating to the transplantation including amounts paid by the employer for traditional paid time off, paid by the employer for other than traditional paid time off, and under Chapters 23 and 37 of Title 19 or any policy of insurance.

(c) The tax credit allowed under this section must be claimed in the taxable year in which the human organ transplantation occurs. Notwithstanding anything to the contrary under this title, to the extent that expenses specified in subsection (b) of this section are incurred in the previous taxable year, such expenses must be claimed in the taxable year in which the human organ transplantation occurred. In circumstances where expenses specified in subsection (b) of this section are incurred within 12 months after the human organ transplantation occurred, such expenses may be taken in the taxable year incurred, provided that the aggregate credit allowable under this chapter for any one human organ transplantation does not exceed \$10,000.

(d) Notwithstanding anything in this section to the contrary, for any taxable year, the total credit allowable for a donor under this section may not exceed \$10,000.

(e) To the extent a taxpayer’s tax credits pursuant to this section exceed any amounts otherwise due for the taxes listed under subsection (a) of this section, such unused credits shall be paid to the taxpayer in the nature of tax refunds.

§ 20E-104. Tax credit for wages paid by qualified employer.

(a) Subject to such return requirements as may be imposed by the State Bank Commissioner, the Insurance Commissioner, or the Secretary of the Department of Finance, qualified employers shall be eligible during the year the organ transplantation occurred for credits against the taxes imposed by the following statutory provisions:

- (1) Chapter 11 of Title 5.
- (2) Chapter 19 of this title.
- (3) Chapter 11 of this title.
- (4) Sections 702 and 703 of Title 18.

(b) The amounts of the credit against the tax shall equal 25% of the gross wages paid to the donor for a period of up to 30 days of missed work for each donation, but the gross wages paid to the donor during the time missed from work for purposes of calculating this credit may not include wages paid to the donor for traditional paid time off. Notwithstanding anything in this title to the contrary, no deduction will be allowed for that portion of the wages or salaries paid or incurred for the taxable year that is equal to the credits determined by a qualified employer for the taxable year under this chapter.

(c) To the extent a qualified employer's credits exceed any amounts otherwise due for the taxes and fees listed under subsection (a) of this section, such unused credits shall be paid to it in the nature of tax refunds.

Section 2. Effective dates.

With respect to the provisions set forth in §§ 20E-101, 20E-102, and 20E-103 of Section 1 of this Act, for publication in the Register of Regulations, the Secretary of Finance shall notify the Registrar of Regulations when the Division of Revenue has implemented the personal income tax release of the Integrated Revenue Administration System. Unless the Secretary of Finance provides notice of an earlier effective date in such notice for publication by the Registrar of Regulations, the provisions set forth in §§ 20E-101, 20E-102, and 20E-103 of Section 1 of this Act take effect on January 1 following the calendar year of publication of such notice.

With respect to the provisions set forth in § 20E-104 of Section 1 of this Act, for publication in the Register of Regulations, the Secretary of Finance shall notify the Registrar of Regulations when the Division of Revenue has implemented the corporate income tax release of the Integrated Revenue Administration System. Unless the Secretary of Finance provides notice of an earlier effective date in such notice for publication by the Registrar of Regulations, the provisions set forth in § 20E-104 of this Act take effect on January 1 following the calendar year of publication of such notice.

Approved October 3, 2022