

2003 SESSION

SENATE SUBSTITUTE

035414408

HOUSE BILL NO. 2161

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 5, 2003)

(Patron Prior to Substitute—Delegate Phillips)

A BILL for the relief of Rocky McCowan, Michael Owens, Steve Farmer, James Lee, and Robert Hicks.

Whereas, Rocky McCowan, Michael Owens, Steve Farmer, James Lee, and Robert Hicks ("the Taxpayers") are Virginia residents who were shareholders in a Subchapter S corporation (S corporation) operating in Kentucky; and

Whereas, each of the Taxpayers reported income from the S corporation on their Virginia individual income tax returns for the taxable years 1992 through 1996; and

Whereas, as a result of a tax audit, the state of Kentucky issued income tax assessments against each of the Taxpayers for the 1992 through 1996 taxable years; and

Whereas, based on the audit, the state of Kentucky issued tax assessments against the Taxpayers as follows:

	Rocky	Michael	Steve	James	Robert
	McCowan	Owens	Farmer	Lee	Hicks
1992				64,314	34,428
1993				23,560	14,560
1994	394	1,719		3,041	3,487
1995	5,753	4,865		5,851	8,168
1996	1,030	1,406	2,560	1,032	1,372
Total	\$7,177	\$7,990	\$2,560	\$97,799	\$62,015

Whereas, § 58.1-332 of the Code for Virginia provides a credit when a Virginia resident becomes liable to another state for income tax on any earned or business income derived from sources outside of Virginia; and

Whereas, the Taxpayers were issued the income tax assessments after the time period for filing amended individual income tax returns provided by § 58.1-1823 had passed for the 1992 through 1996 taxable years; and

Whereas, The Department of Taxation does not have the authority to allow the out-of-state tax credit on the Taxpayers' returns for any of the years in question the statute of limitations for filing amended returns has expired; and

Whereas, Rocky McCowan, Michael Owens, Steve Farmer, James Lee, and Robert Hicks have no other means to obtain relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Department of Taxation is directed to review the amended income tax returns submitted by Rocky McCowan, Michael Owens, Steve Farmer, James Lee, and Robert Hicks for taxable years 1992 through 1996 notwithstanding the limitation for the filing of such amended tax returns provided by § 58.1-1823 of the Code of Virginia and provide to such individuals the appropriate tax credit as provided by § 58.1-332. Any amount refunded by the Department of Taxation to Rocky McCowan, Michael Owens, Steve Farmer, James Lee, and Robert Hicks for taxable years 1992 through 1996 shall be without interest as provided by § 58.1-1833. All amended tax returns shall be submitted to the Department of Taxation no later than October 1, 2003.*

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