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HOUSE BILL NO. 753

Offered January 11, 2006

Prefiled January 10, 2006

A BILL to amend and reenact § 58.1-339.8 of the Code of Virginia, relating to the income tax credit for low-income taxpayers.

Patron—McEachin

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-339.8 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-339.8. Income tax credit for low-income taxpayers.

A. As used in this section, unless the context requires otherwise:

"Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an individual, the individual's spouse, and any person claimed as a dependent on the individual's or his spouse's income tax return for the taxable year.

"Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673 (2) of the Omnibus Budget Reconciliation Act of 1981.

"Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

B. 1. For taxable years beginning on and after January 1, 2000, any individual or persons filing a joint return whose family Virginia adjusted gross income does not exceed 100 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year, shall be allowed a credit against the tax levied pursuant to § 58.1-320 in an amount equal to \$300 each for the individual, the individual's spouse, and any person claimed as a dependent on the individual's or married persons' income tax return for the taxable year. For any taxable year in which a husband and wife file separate Virginia income tax returns, the credit provided under this section shall be allowed against the tax for only one of such two tax returns. Additionally, the credit provided under this section shall not be allowed against such tax of a dependent of the individual or of married persons.

2. For taxable years beginning on and after January 1, 2006, any individual or married persons, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu of the credit authorized under subdivision B 1, claim a credit against the tax imposed pursuant to § 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or married persons for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year. In no case shall a household be allowed a credit pursuant to this subdivision and subdivision B 1 for the same taxable year.

For purpose of this subdivision, "household" means an individual and in the case of married persons, the individual and his spouse regardless of whether or not the individual and his spouse file combined or separate Virginia individual income tax returns.

C. The amount of the credit provided pursuant to subsection B for any taxable year shall not exceed the individual's or married persons' Virginia income tax liability.

D. Notwithstanding any other provision of this section, no credit shall be allowed pursuant to subsection B in any taxable year in which the individual, the individual's spouse, or both, or any person claimed as a dependent on such individual's or married persons' income tax return, claims one or any combination of the following on his or their income tax return for such taxable year:

1. The subtraction under subdivision C 11 of § 58.1-322;
2. The subtraction under subdivision C 23 of § 58.1-322;
3. The subtraction under subdivision C 24 of § 58.1-322;
4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision D 2 b of § 58.1-322; or
5. The deduction under subdivision D 5 of § 58.1-322.

For taxable years beginning on or after January 1, 2006, any individual shall be allowed a refundable credit against the tax levied pursuant to § 58.1-320 in an amount equal to 10% of the federal earned income credit allowed such individual for the taxable year under § 32(a)(1) of the Internal Revenue Code, using the percentages under § 32(b) with the limitation contained in § 32(a)(2). Any individual whose credit exceeds his tax liability shall receive a refund equal to such excess amount.

In the case of a nonresident taxpayer, the amount of credit allowed under this section shall not

INTRODUCED

HB753

59 *exceed the nonresident's Virginia tax liability. In the case of a part-year resident taxpayer whose credit*
60 *exceeds his tax liability, any refund amount shall be limited to the amount of the excess multiplied by a*
61 *fraction, the numerator of which is federal adjusted gross income for the periods of Virginia residence,*
62 *and the denominator of which is federal adjusted gross income for the entire taxable year.*