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HOUSE BILL NO. 2437

Offered January 14, 2009

Prefiled January 14, 2009

A BILL to amend and reenact § 58.1-408 of the Code of Virginia and to amend the Code of Virginia by adding in Article 10 of Chapter 3 of Title 58.1 a section numbered 58.1-422, relating to corporate income tax; apportionment of income for manufacturers.

Patrons—Byron, Abbitt, Armstrong, Cline, Cole, Marshall, D.W., Massie, Merricks, Nutter, Peace and Pollard; Senators: Hurt, Stosch and Wagner

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-408 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 10 of Chapter 3 of Title 58.1 a section numbered 58.1-422 as follows:

§ 58.1-408. What income apportioned and how.

The Virginia taxable income of any corporation, except those subject to the provisions of §§ 58.1-417, 58.1-418, 58.1-419, ~~or~~ § 58.1-420 or 58.1-422, excluding income allocable under § 58.1-407, shall be apportioned to the Commonwealth by multiplying such income by a fraction, the numerator of which is the property factor plus the payroll factor, plus twice the sales factor, and the denominator of which is four; however, where the sales factor does not exist, the denominator of the fraction shall be the number of existing factors and where the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction shall be the number of existing factors plus one.

§ 58.1-422. *Manufacturing companies; apportionment.*

A. For taxable years beginning on or after July 1, 2010, the Virginia taxable income of a manufacturing company, excluding income allocable under § 58.1-407, may be apportioned within and without the Commonwealth as provided in § 58.1-408 or as follows:

1. From July 1, 2010, until July 1, 2012, by multiplying such income by a fraction, the numerator of which is the property factor plus the payroll factor plus triple the sales factor and the denominator of which is five, except when the sales factor does not exist, the denominator of the fraction shall be the number of existing factors and when the sales factor exists but the payroll factor or property factor does not exist, the denominator of the fraction shall be the number of existing factors plus two;

2. From July 1, 2012, until July 1, 2013, by multiplying such income by a fraction, the numerator of which is the property factor plus the payroll factor plus quadruple the sales factor and the denominator of which is six, except when the sales factor does not exist, the denominator of the fraction shall be the number of existing factors and when the sales factor exists but the payroll factor or property factor does not exist, the denominator of the fraction shall be the number of existing factors plus three; and

3. From July 1, 2013, and thereafter, by multiplying such income by the sales factor.

B. If the taxpayer makes one or more of the elections described in subdivision A 1, A 2, or A 3, the taxpayer may not revoke the election for a period of two taxable years.

In addition, the taxpayer shall certify to the Department that the average weekly wage of its full-time employees is greater than the lower of the state or local average weekly wages for the taxpayer's industry.

C. For the purposes of this section, "manufacturing company" means a domestic or foreign corporation primarily engaged in activities that, in accordance with the North American Industrial Classification System (NAICS), United States Manual, United States Office of Management and Budget, 1997 Edition, would be included in Sector 11, 31, 32, or 33.

INTRODUCED

HB2437