

# VIRGINIA ACTS OF ASSEMBLY -- 1996 RECONVENED SESSION

## CHAPTER 1034

*An Act to amend and reenact § 58.1-439.2 of the Code of Virginia, relating to the coalfield employment enhancement tax credit.*

[H 1454]

Approved April 17, 1996

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-439.2 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-439.2. Coalfield employment enhancement tax credit.

A. For tax years beginning on and after January 1, 1996, but before January 1, ~~2001~~ 2002, any person who has an economic interest in coal mined in the Commonwealth shall be allowed a credit against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth in accordance with the following:

1. For coal mined by underground methods, the credit amount shall be based on the seam thickness as follows:

Seam Thickness	Credit per Ton
<del>Under 33"</del> 36" and under	<del>\$.60</del> \$2.00
<del>33" and</del> Above 36"	<del>\$.50</del> \$1.00

The seam thickness shall be based on the weighted average isopach mapping of actual coal thickness by mine as certified by a professional engineer. Copies of such certification shall be maintained by the person qualifying for the credit under this section for a period of three years after the credit is applied for and received and shall be available for inspection by the Department of Taxation. The Department of Mines, Minerals and Energy is hereby authorized to audit all information upon which the isopach mapping is based.

2. For coal mined by surface mining methods, a credit in the amount of ~~twenty-five~~ forty cents per ton for coal sold in 1996, and each year thereafter.

B. In addition to the credit allowed in subsection A, for tax years beginning on and after January 1, 1996, any person who is a producer of coalbed methane shall be allowed a credit in the amount of one cent per million BTUs of coalbed methane produced in the Commonwealth against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth on such person.

C. For purposes of this section, economic interest is the same as the economic ownership interest required by § 611 of the Internal Revenue Code which was in effect on December 31, 1977. A party who only receives an arm's length royalty shall not be considered as having an economic interest in coal mined in the Commonwealth.

D. If the credit exceeds the person's state tax liability for the tax year, the excess ~~may~~ shall be redeemable by the Tax Commissioner on behalf of the Commonwealth for ~~ninety-five~~ ninety percent of the face value within ninety days after filing the return. ~~If the Commonwealth does not redeem such excess amount, it shall be transferable by sale. The remaining ten percent of the value of the credit being redeemed shall be deposited by the Commissioner in a regional economic development fund administered by the Coalfields Economic Development Authority to be used for regional economic diversification in accordance with guidelines developed by the Coalfields Economic Development Authority and the Virginia Economic Development Partnership.~~

E. No person may utilize more than one of the credits on a given ton of coal described in subsection A. No person may claim a credit pursuant to this section for any ton of coal for which a credit has been claimed under § 58.1-433 or § 58.1-2626.1. Persons who qualify for the credit may not apply such credit to their tax returns prior to January 1, 1999, and only one year of credits shall be allowed annually beginning in 1999. ~~No credit authorized by subsections A and B shall be taken by any taxpayer in 1999 unless general fund revenue in fiscal year 1997-98 exceeds the official estimate of general fund revenue by at least the cost of the credits authorized by subsections A and B as estimated by the Department of Taxation. In each following year no credit shall be taken by any taxpayer unless general fund revenue in the fiscal year ending the prior June 30 exceeds the official estimate of general fund revenue by at least the cost of the credits authorized by subsections A and B.~~

F. *The amount of credit allowed pursuant to subsection A shall be the amount of credit earned multiplied by the person's employment factor. The person's employment factor shall be the percentage obtained by dividing the total number of coal mining jobs of the person filing the return, including the jobs of the contract operators of such person, as reflected in the annual tonnage reports filed with the Department of Mines, Minerals and Energy for the year in which the credit was earned by the total*

*number of coal mining jobs of such persons or operators as reflected in the annual tonnage reports for the year immediately prior to the year in which the credit was earned. In no case shall the credit claimed exceed that amount set forth in subsection A.*

*G. The tax credit allowed under this section shall be claimed according to the following schedule:*

- 1. 50% of the credit allowed in tax year 1996 shall be claimed in tax year 1999 and the remainder in tax year 2005.*
- 2. 50% of the credit allowed in tax year 1997 shall be claimed in tax year 2000 and the remainder in tax year 2006.*
- 3. 75% of the credit allowed in tax year 1998 shall be claimed in tax year 2001 and the remainder in tax year 2007.*
- 4. 75% of the credit allowed in tax year 1999 shall be claimed in tax year 2002 and the remainder in tax year 2008.*
- 5. 100% of the credit allowed in tax year 2000 shall be claimed in tax year 2003.*
- 6. 100% of the credit allowed in tax year 2001 shall be claimed in tax year 2004.*

**2. That the provisions of this act shall become effective for all taxable years beginning on or after January 1, 1996, through December 31, 2001; however, credits earned for such taxable years may continue to be utilized after taxable year 2001 as provided in this act.**