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**1**                           **HOUSE BILL NO. 2368**
**2**                           Offered January 20, 1997
**3**    *A BILL to amend and reenact § 58.1-332 of the Code of Virginia, relating to credit for taxes paid to*
**4**      *other states.*
**5**                               ——————
**6**                             Patron—Behm
**7**                               ——————
**8**                    Referred to Committee on Finance
**9**                               ——————
**10**      **Be it enacted by the General Assembly of Virginia:**
**11**   **1. That § 58.1-332 of the Code of Virginia is amended and reenacted as follows:**
**12**      § 58.1-332. Credits for taxes paid other states.
**13**      A. Whenever a Virginia resident has become liable to another state for income tax on any earned or
**14** business income or any gain on the sale of a ~~principal~~ ~~residence~~ *capital asset* (within the meaning of §
**15** ~~1034~~ *1221* of the Internal Revenue Code) to the extent that such gain is included in federal adjusted
**16** gross income, for the taxable year, derived from sources outside the Commonwealth and subject to
**17** taxation under this chapter, the amount of such tax payable by him shall, upon proof of such payment,
**18** be credited on the taxpayer's return with the income tax so paid to the other state.
**19**      However, no franchise tax, license tax, excise tax, unincorporated business tax, occupation tax or any
**20** tax characterized as such by the taxing jurisdiction, although applied to earned or business income, shall
**21** qualify for a credit under this section, nor shall any tax which, if characterized as an income tax or a
**22** commuter tax, would be illegal and unauthorized under such other state's controlling or enabling
**23** legislation qualify for a credit under this section.
**24**      The credit allowable under this section shall not exceed: (i) such proportion of the income tax
**25** otherwise payable by him under this chapter as his income upon which the tax imposed by the other
**26** state was computed bears to his Virginia taxable income upon which the tax imposed by this
**27** Commonwealth was computed or (ii) the income tax otherwise payable under this chapter in the event
**28** that the income upon which the tax imposed by the other state is computed is less than the Virginia
**29** taxable income upon which the tax imposed by this Commonwealth is computed and all income derived
**30** from sources outside the Commonwealth and subject to taxation under this chapter is earned income
**31** from a single state contiguous to Virginia. The credit provided for by this section shall not be granted to
**32** a resident individual when the laws of another state, under which the income in question is subject to
**33** tax assessment, provide a credit to such resident individual substantially similar to that granted by
**34** subsection B of this section.
**35**      B. Whenever a nonresident individual of this Commonwealth has become liable to the state where he
**36** resides for income tax upon his Virginia taxable income for the taxable year, derived from Virginia
**37** sources and subject to taxation under this chapter, the amount of such tax payable under this chapter
**38** shall be credited with such proportion of the tax so payable by him to the state where he resides, upon
**39** proof of such payment, as his income subject to taxation under this chapter bears to his entire income
**40** upon which the tax so payable to such other state was imposed. The credit, however, shall be allowed
**41** only if the laws of such state: (i) grant a substantially similar credit to residents of Virginia subject to
**42** income tax under such laws or (ii) impose a tax upon the income of its residents derived from Virginia
**43** sources and exempt from taxation the income of residents of this Commonwealth. No credit shall be
**44** allowed against the amount of the tax on any income taxable under this chapter which is exempt from
**45** taxation under the laws of such other state.
**46**      C. For purposes of this section, the amount of any state income tax paid by an electing small
**47** business corporation (S corporation) shall be deemed to have been paid by its individual shareholders in
**48** proportion to their ownership of the stock of such corporation.
**49**   **2. That the provisions of this act shall become effective for taxable years beginning on and after**
**50** **January 1, 1997.**