VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.12, relating to farm wineries and vineyards income tax credit.

[S 1264]

Approved

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.12 as follows:

§ 58.1-339.12. Farm wineries and vineyards tax credit.

A. As used in this section, unless the context requires a different meaning:

"Qualified capital expenditures" means all expenditures made by the taxpayer for the purchase and installation of barrels, bins, bottling equipment, capsuling equipment, chemicals, corkers, crushers and destemmers, dirt, fermenters, or other recognized fermentation devices, fertilizer and soil amendments, filters, grape harvesters, grape plants, hoses, irrigation equipment, labeling equipment, poles, posts, presses, pumps, refractometers, refrigeration equipment, seeders, tanks, tractors, vats, weeding and spraying equipment, wine tanks, and wire.

"Virginia vineyard" means agricultural lands located in the Commonwealth consisting of at least one contiguous acre dedicated to the growing of grapes that are used or are intended to be used in the production of wine by a Virginia farm winery as well as any plants or other improvements located thereon.

"Virginia farm winery" means an establishment located in the Commonwealth that is licensed as a Virginia farm winery pursuant to § 4.1-207.

B. For taxable years beginning on and after January 1, 2011, any Virginia farm winery or vineyard shall be entitled to a credit against the tax levied pursuant to §§ 58.1-320 and 58.1-400 for qualified capital expenditures made in connection with the establishment of new Virginia farm wineries or vineyards and capital improvements made to existing Virginia farm wineries or vineyards. The amount of the credit shall be equal to 25 percent of all qualified capital expenditures.

C. The total amount of tax credits available under this section for a calendar year shall not exceed $250,000. In the event that applications for such credit exceed $250,000 for any calendar, the Department of Taxation shall allocate the credits on a pro rata basis.

D. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the excess may be carried over for credit against the income taxes of the taxpayer in the next 10 taxable years or until the total credit amount has been taken, whichever occurs first.

E. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

F. The credit allowed in this section shall not be claimed to the extent the taxpayer has claimed a deduction for the same expenses for federal income tax purposes under § 179 of the Internal Revenue Code, as amended.