

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** Adam P. Ebbin

3. **Committee** Senate Finance

4. **Title** Income Tax: Microenterprise Investment Tax Credit

2. **Bill Number** SB 262

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow a tax credit to individuals and to estates and trusts for the investment into a microenterprise located in a HUB Zone, a green microenterprise or any other type of microenterprise. The amounts and distribution of the tax credit would be as follows:

- The tax credit for an investment in a microenterprise located in a HUB Zone would be equal to 25 percent of the qualified investment, and would be taken over a three-year period as follows: a.) 15 percent for the taxable year in which the investment was made; and b.) five percent for the two taxable years immediately following the year in which the investment was made.
- The tax credit for an investment in a green microenterprise (as defined by the Secretary of Commerce and Trade) would be equal to 25 percent of the taxpayer's qualified investment, and would be taken over a three-year period as follows: a.) 15 percent for the taxable year in which the investment was made; and b.) five percent for the two taxable years immediately following the year in which the investment was made; and
- The tax credit for an investment in any other microenterprise would be equal to 20 percent of the taxpayer's qualified investment, and would be taken over a three-year period as follows: a.) 10 percent credit during the taxable year in which the investment was made; and b.) five percent for the two taxable years immediately following the year in which the investment was made.

The total amount of the tax credit would not be allowed to exceed \$12,500 and the taxpayer's tax liability for the taxable year. This bill would allow the credit to be claimed over three years instead of providing a carry-over provision.

The total amount of tax credits that may be allocated in a calendar year would be limited to \$2.5 million. The Department would be required to allow for the allocation of tax credits among taxpayers requesting credits in the event the amount of credits requested exceeds the available amount of credits in any one calendar year.

This bill would effective for taxable years beginning January 1, 2012, but before January 17, 2017.

6. Budget amendment necessary: Yes.

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7. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2011-12	\$0	0	GF
2012-13	\$61,100	1 FTE	GF
2013-14	\$60,008	1 FTE	GF
2014-15	\$61,664	1 FTE	GF
2015-16	\$63,370	1 FTE	GF
2016-17	\$65,127	1 FTE	GF
2017-18	\$66,937	1 FTE	GF

8. Fiscal implications:

Administrative Costs

The Department of Taxation (“the Department”) believes it could implement this bill as part of its routine annual changes to systems and forms, but is requesting funding in the amount of \$61,100 in FY 2013, \$60,008 in FY 2014, \$61,664 in FY 2015, \$63,370 in FY 2016, \$65,127 in FY 2017 and \$66,937 in FY 2018, and each subsequent year thereafter, for hiring one additional full-time employee necessary to review, verify, and process the anticipated volume of returns claiming the credit. The Department may revise these administrative costs later in the session after analyzing all state tax legislation.

Secretary of Commerce and Trade Administrative Costs

The Secretary of Commerce and Trade would not incur any administrative costs, as they already define green jobs under the Green Jobs Creation Tax Credit.

Revenue Impact

The negative General Fund revenue impact of this bill is unknown. The maximum negative revenue impact, however, could not exceed the \$2.5 million cap.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Law

The Historically Underutilized Business Zones (HUB Zone) program, administered by the Small Business Administration, helps small businesses in urban and rural communities gain preferential access to federal procurement opportunities. These preferences go to small businesses that maintain a principal office in a HUB Zone and employ staff who live in a HUB Zone. Small businesses that qualify for the program receive a HUB Zone certification from the Small Business Administration.

Current Virginia Small Business Incentives

The Virginia Department of Business Assistance (VDBA) provides a one-stop-service for technical assistance related to business formation, access to capital, and workforce development. VDBA works with and mentors entrepreneurs from ideas to launching their first business venture. To accomplish its objectives, VDBA provides workforce incentives, access to capital, business information, small business incubator counseling, and hosts entrepreneurial workshops statewide annually.

The Virginia Small Business Finance Authority (VSBFA) assists small businesses through a number of financing programs. VSBFA offers direct loans for fixed asset purchases to businesses, localities and Economic Development Authorities for projects of all sizes. VSBFA also offers loan guaranties and loan loss insurance programs to reduce risk to banks making it easier for financial institutions to make loans to small businesses. In addition, targeted financing programs are available for southern Virginia's tobacco region, minority-owned businesses, small manufacturers, non-profit organizations, licensed Child care and family home providers, and Virginia's tourism industry.

Under Virginia's Qualified Equity and Subordinated Debt Investments Tax Credit, an individual or corporation is allowed a tax credit for investments made in a qualified small business having annual gross revenues of no more than \$3 million engaged in the business of advanced computing, advanced materials, advanced manufacturing, agricultural technologies, biotechnology, electronic device technology, energy, environmental technology, medical device technology, nanotechnology, or any similar technology-related field.

The Virginia Enterprise Zone program, administered by the Department of Housing and Community Development, provides two grant programs available to eligible businesses that locate a facility within the zone. The Job Creation Grant program provides grants to eligible businesses for certain permanent full-time job creation exceeding a four job threshold. The Real Property Investment Grant program provides grants for qualified real property investments made in a designated Virginia Enterprise Zone by an eligible individual or business. Since the program was converted to a grant program in 2005, no new tax credits have been allowed. However, firms that had previously been allowed Enterprise Zone General Business Tax Credits are permitted to continue to claim them.

Proposal

This bill would allow a tax credit to individuals and to estates and trusts for the investment into a microenterprise located in a HUB Zone, a green microenterprise or any other type of microenterprise. The amounts and distribution of the tax credit would be as follows:

- The tax credit for an investment in a microenterprise located in a HUB Zone would be equal to 25 percent of the qualified investment, and would be taken over a three-year period as follows: a.) 15 percent for the taxable year in which the investment was made; and b.) five percent for the two taxable years immediately following the year in which the investment was made.
- The tax credit for an investment in a green microenterprise (as defined by the Secretary of Commerce and Trade) would be equal to 25 percent of the taxpayer's qualified investment, and would be taken over a three-year period as follows: a.) 15 percent for the taxable year in which the investment was made; and b.) five percent for the two taxable years immediately following the year in which the investment was made; and
- The tax credit for an investment in any other microenterprise would be equal to 20 percent of the taxpayer's qualified investment, and would be taken over a three-year period as follows: a.) 10 percent credit during the taxable year in which the investment was made; and b.) five percent for the two taxable years immediately following the year in which the investment was made.

The total amount of the tax credit would not be allowed to exceed \$12,500 and the taxpayer's tax liability for the taxable year. This bill would allow the credit to be claimed over three years instead of providing a carry-over provision.

The total amount of tax credits that may be allocated in a calendar year would be limited to \$2.5 million. The Department would be required to allow for the allocation of tax credits among taxpayers requesting credits in the event the amount of credits requested exceeds the available amount of credits in any one calendar year.

"Green business" would mean a business engaged in the fields of renewable, alternative energies, including the manufacture and operation of products used to generate electricity and other forms of energy from alternative sources that include hydrogen and fuel cell technology, landfill gas, geothermal heating systems, solar heating systems, hydropower systems, wind systems, and biomass and biofuel systems. The Secretary of Commerce and Trade shall develop a detailed definition of the industries in which an investment would qualify for a credit under this section.

"HUBZone" would mean an area designated as a Historically Underutilized Business Zone by the U.S. Small Business Administration.

"Microenterprise" would mean a business with 10 or fewer employees that is located in the Commonwealth and is not primarily engaged in real estate, professional services, or financial services.

"Qualified investment" would mean a cash investment in a qualified business in the form of equity or subordinated debt; however, an investment shall not be qualified if the taxpayer who holds such investment, or any of the taxpayer's family members, or any entity affiliated with such taxpayer, receives or has received compensation from the qualified business in exchange for services provided to such business as an employee, officer, director, manager, independent contractor, or otherwise in connection with or within one year before or after the date of such investment. For the purposes hereof, reimbursement of reasonable expenses incurred shall not be deemed to be compensation.

"Subordinated debt" would mean indebtedness of a corporation, general or limited partnership, or limited liability company that (i) by its terms required no repayment of principal for the first three years after issuance, (ii) is not guaranteed by any other person or secured by any assets of the issuer or any other person, and (iii) is subordinated to all indebtedness and obligations of the issuer to national or state-chartered banking or savings and loan institutions.

The tax credit would not be allowed to any taxpayer that has committed capital under management in excess of \$10 million and engages in the business of making debt or equity investments in private businesses or to any taxpayer that is allocated a credit as a partner, shareholder, member, or owner of an entity that engages in such business.

Any credit attributable to a qualified investment by a partnership, electing small business corporation (S corporation), or limited liability company would be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership interest in such business entities.

This bill would be effective for taxable years beginning January 1, 2012, but before January 1, 2017.

Similar Bills

House Bill 783 is identical to this bill.

Executive bills:

House Bill 585 and Senate Bill 344 would allow an individual income tax credit for certain investments made to small businesses.

House Bill 714 and Senate Bill 368 would extend the time during which the major business facility job tax credit may be taken over a two-year period through 2014.

House Bill 1013 and Senate Bill 226 would extend the subtraction from individual and corporate income tax for capital gains to apply to investments in qualified businesses made through June 30, 2015.

Other bills:

House Bill 111 would grant an individual or corporate income tax credit, equal to \$1,000, for each new full-time job, up to 50, that a small business creates in Virginia.

House Bill 149 and **Senate Bill 61** would reduce the corporate income tax rate to 3% for 3 years for corporations that locate satellite offices in certain localities.

House Bill 191 would allow a corporate or individual income tax credit, equal to \$2,500, to a small business for each new job it creates in Virginia and fills with a graduate of a Virginia college or university.

House Bill 228 would create a corporate income tax credit for certain large federal government contractors equal to five percent of the value of new qualified subcontracts or the increase in the existing subcontracts with small businesses located in HUB zones or Enterprise Zones or are minority-owned, women-owned, or veteran-owned business.

House Bill 335 would allow an individual and corporate income tax deduction for any income taxed as a capital gain or investment services partnership interest income for federal income tax purposes attributable to an investment in a small business held for a period of at least five years.

House Bill 720 would increase the worker retraining tax credit for worker retraining courses taken by employees at private schools from a maximum of \$100 per year per employee to \$250 per year per employee, and \$500 per year per employee if the worker retraining includes retraining in a STEM or STEAM (science, technology, engineering, mathematics, or applied mathematics) discipline or a healthcare related discipline.

cc : Secretary of Finance

Date: 2/2/2012 tlg
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