

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** Ryan T. McDougale

3. **Committee** Senate Finance

4. **Title** Research and Development Expenses Tax
Credit

2. **Bill Number** SB 623

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would increase the annual cap for the Research and Development Expenses Tax Credit from \$5 million to \$10 million.

This bill would also increase the amount of Research and Development Expenses Tax Credits that each taxpayer could claim to an amount equal to 15 percent of the first \$234,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer or 20 percent of the first \$234,000 in such expenses if the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university, to the extent the expenses exceed the Virginia base amount for the taxpayer. If the total amount of approved credits is less than \$10 million for any taxable year, this bill would require the Department to allocate credits of up to \$10 million, on a pro rata basis, to taxpayers that are already approved for the credit in an amount equal to 15 percent of the second \$234,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer or 20 percent of the second \$234,000 in such expenses if the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university.

This bill would allow a partnership, limited liability company, or electing small business corporation (S corporation) to elect to receive and claim the credit at the entity level.

This bill would require taxpayers applying for the credit to provide certain information to the Department of Taxation ("the Department"), and would require the Department to report such information to the Governor and any member of the General Assembly upon request.

This bill would be effective for taxable years beginning on or after January 1, 2014, except that the provisions increasing the annual credit cap would be effective for fiscal years beginning on or after July 1, 2014.

6. **Budget amendment necessary:** Yes.

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

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2013-14	\$0	GF
2014-15	(\$5 million)	GF
2015-16	(\$5 million)	GF
2016-17	(\$5 million)	GF
2017-18	(\$5 million)	GF
2018-19	(\$5 million)	GF
2019-20	(\$5 million)	GF

8. Fiscal implications:

Administrative Cost

The Department has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as “routine,” and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not “routine.” Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

Revenue Impact

Because this bill would increase the annual cap for the Research and Development Expenses Tax Credit from \$5 million to \$10 million, it bill would have a negative General Fund revenue impact of \$5 million beginning in Fiscal Year 2015, provided that the maximum amount of credits is claimed.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Research and Development Expenses Tax Credit

Virginia currently allows Research and Development Expenses Tax Credits in an amount equal to 15 percent of the first \$167,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year or 20 percent of the first \$175,000 of such expenses if the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university, to the extent the expenses exceed the Virginia base amount for the taxpayer. If the total amount of

approved credits is less than \$5 million for any taxable year, the Department is required to allocate credits of up to \$5 million, on a pro rata basis, to taxpayers that are already approved for the credit in an amount equal to 15 percent of the second \$167,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer or 20 percent of the second \$175,000 in such expenses if the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university. The credit is capped at \$5 million per fiscal year.

The amount of credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) are required to be allocated to the individual partners, shareholders, or members in proportion to their ownership or interest in such entities or in accordance with a written agreement entered into by such individual partners, members, or shareholders. This is consistent with how the majority of Virginia's tax credits are administered

Proposed Legislation

This bill would increase the annual cap for the Research and Development Expenses Tax Credit from \$5 million to \$10 million.

This bill would also increase the amount of Research and Development Expenses Tax Credits that each taxpayer could claim to an amount equal to 15 percent of the first \$234,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer or 20 percent of the first \$234,000 in such expenses if the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university, to the extent the expenses exceed the Virginia base amount for the taxpayer. If the total amount of approved credits is less than \$10 million for any taxable year, this bill would require the Department to allocate credits of up to \$10 million, on a pro rata basis, to taxpayers that are already approved for the credit in an amount equal to 15 percent of the second \$234,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer or 20 percent of the second \$234,000 in such expenses if the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university.

This bill would allow a partnership, limited liability company, or electing small business corporation (S corporation) to elect to receive and claim the credit at the entity level, pursuant to guidelines that the Department would be required to issue for purposes of such election. If this election is not made, this bill would require that such credits be allocated to the individual partners, members, or shareholders in proportion to their ownership interests in such entities or in accordance with a written agreement entered into by such individual partners, members, or shareholders.

This bill would require taxpayers applying for the credit to provide the following information to the Department:

- The number of full-time employees employed by the taxpayer in the Commonwealth during the taxable year for which the credit is sought;

- The taxpayer's sector or sectors according to the 2012 edition of the North American Industry Classification System (NAICS) as published by the United States Census Bureau;
- A brief description of the area, discipline, or field of Virginia qualified research performed by the taxpayer;
- The total gross receipts or anticipated total gross receipts of the taxpayer for the taxable year for which the credit is sought; and
- Whether the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university.

This bill would require the Department to aggregate and summarize the information collected from taxpayers, and make it available to the Governor and any member of the General Assembly upon request, without identifying individual taxpayers.

This bill would be effective for taxable years beginning on or after January 1, 2014, except that the provisions increasing the annual credit cap would be effective for fiscal years beginning on or after July 1, 2014.

Similar Bills

House Bill 1220 is identical to this bill.

cc : Secretary of Finance

Date: 1/28/2014 MTH
SB623F161