DEPARTMENT OF TAXATION
2016 Fiscal Impact Statement

1. Patron Eileen Filler-Corn

2. Bill Number HB 660

House of Origin:
X **Introduced**
____ **Substitute**
____ **Engrossed**

3. Committee House Finance

4. Title Income Tax; Increase the Qualified Equity and Subordinated Debt Investments Tax Credit

Second House:
____ **In Committee**
____ **Substitute**
____ **Enrolled**

5. Summary/Purpose:

This bill would increase the annual cap on the Qualified Equity and Subordinated Debt Investments Tax Credit from $5 million to $9 million. This bill would also increase the maximum amount of credits that each taxpayer may claim per taxable year from $50,000 to $100,000.

This bill would be effective for taxable years beginning on or after January 1, 2016.

6. Budget amendment necessary: No.

7. No Fiscal Impact: (See Line 8.)

8. Fiscal implications:

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have an annual negative General Fund revenue impact of $4 million beginning in Fiscal Year 2017. No budget amendment is needed because the General Fund revenue impact is assumed in the Introduced Executive Budget.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

<u>The Qualified Equity and Subordinated Debt Investments Tax Credit</u>

Virginia currently allows Qualified Equity and Subordinated Debt Investments Tax Credits in an amount equal to 50 percent of a taxpayer's qualified investments. The credit may be claimed against the individual income tax or the income tax imposed on trusts and estates. For purposes of the credit, a "qualified investment" is defined as a cash investment in a qualified business in the form of equity or subordinated debt. A "qualified business" is a business which:

- Has no more than $3 million of gross revenues in the most recent fiscal year;

- Has its principal office or facility in Virginia;

- Is engaged in business primarily in or does substantially all of its production in Virginia;

- Has not during its existence more than $3 million in aggregate gross cash proceeds from the issuance of its equity or debt investments; and

- Is primarily engaged in or is primarily organized to engage in one or more of the following high technology-related fields:

    - Advanced computing;
    - Advanced materials;
    - Advanced manufacturing;
    - Agricultural technologies;
    - Biotechnology;
    - Electronic device technology;
    - Energy;
    - Environmental technology;
    - Information technology;
    - Medical device technology;
    - Nanotechnology; or
    - Any similar technology-related field as determined by regulations promulgated by the Department.

Credits cannot be claimed by 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 by any taxpayer that is allocated a credit as a partner, shareholder, member or owner of an entity that engages in such business.

The credit is currently capped at $5 million per year. However, beginning with 2006, budget actions imposed a lower credit cap for certain years. See the chart below for information about the annual credit cap imposed from 2006 through 2014.

Year	Annual Credit Cap
2006-2009	$3 million
2010	$5 million
2011	$3 million
2012	$4 million
2013	$4.5 million
2014 and after	$5 million

One-half of the amount of credits available each year must be allocated exclusively for credits for commercialization investments. For purposes of the credit, a “commercialization investment” is a qualified investment in a qualified business that was created to commercialize research developed at or in partnership with an institution of higher education. If the amount of credits requested for commercialization investments is less than one-half of the credit cap, the balance of credits remaining must be allocated for qualified investments in any qualified business.

No taxpayer is permitted to claim more than $50,000 in credits for a taxable year. Any credit not useable for the taxable year in which the credit was allowed may be, to the extent usable, carried over for the next 15 succeeding taxable years or until the total amount of the credit has been taken, whichever occurs first.

Credit applications have exceeded the credit cap, resulting in a reduction in the amount of credit each taxpayer is allocated. See the chart below for information regarding the amount of credits requested from 2011 through 2014.

Year	Number of Taxpayers	Number of Investments	Amount Approved	Annual Cap
2011	200	235	$8,089,740	$3,000,000
2012	65	83	$2,534,882	$4,000,000
2013	140	245	$7,291,256	$4,500,000
2014	127	228	$9,029,024	$5,000,000

Proposed Legislation

This bill would increase the annual cap on the Qualified Equity and Subordinated Debt Investments Tax Credit from $5 million to $9 million. This bill would also increase the maximum amount of credits that each taxpayer may claim per taxable year from $50,000 to $100,000.

This bill would be effective for taxable years beginning on or after January 1, 2016.

Similar Bills

Senate Bill 200 is identical to this bill.

House Bill 28 would impose a January 1, 2017 sunset date on the Qualified Equity and Subordinated Debt Investments Tax Credit.

House Bill 799 would increase the annual cap on the Qualified Equity and Subordinated Debt Investments Tax Credit from $5 million to $7.5 million, reserve $2.5 million of the annual cap exclusively for investments in cybersecurity businesses, and allow a business with no more than 50 full-time employees to qualify even if it has more than $3 million of annual gross revenues.

Item 3-6.04 of the Introduced Executive Budget would allocate $2 million of the amount of Qualified Equity and Subordinated Debt Investments Tax Credits exclusively for investments in biotechnology companies.

cc: Secretary of Finance

Date: 1/19/2016 MTH
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