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HOUSE BILL NO. 1479

Offered January 11, 2023

Prefiled December 30, 2022

A *BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13, relating to employer-provided childcare tax credit.*

Patrons—Anderson, Subramanyam, Clark, Kory and Murphy

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13 as follows:

§ 58.1-439.12:13. Employer-provided childcare tax credit.

A. For the purposes of this section, unless the context requires a different meaning:

"Small business" means a business that is at least 51 percent independently owned and controlled by one or more individuals, or in the case of a cooperative association organized pursuant to Chapter 3 (§ 13.1-301 et seq.) of Title 13.1 as a nonstock corporation, is at least 51 percent independently controlled by one or more members, who are U.S. citizens or legal resident aliens and, together with affiliates, has fewer than 100 employees. A small business must offer child care options to full-time employees with children to qualify for the credit under this section. Any small business that intends to claim a credit under this section must maintain records of its monthly qualified childcare expenditures, including purchase receipts and invoices.

"Qualified childcare expenditure" means any amount paid or incurred (i) for the operating costs of a qualified child day center by the small business, including costs related to the training of employees, to scholarship programs, and to providing increased compensation to employees with higher levels of child care training, or (ii) under a contract with a qualified child day center to provide child care services to employees of the small business. "Qualified child care expenditure" does not include expenses in excess of the fair market value of such child care.

"Qualified child day center" means a duly licensed child day center as defined by § 22.1-289.02.

B. For taxable years beginning on and after January 1, 2023, but before January 1, 2028, a small business shall be allowed a nonrefundable credit against the tax levied pursuant to §§ 58.1-320 or 58.1-400 for qualified childcare expenditures. The small business shall submit with its tax return the records of its monthly qualified expenditures, including any purchase receipts or invoices. The amount of the credit allowed for such a small business shall be 20 percent of the aggregate amount incurred on monthly qualified childcare expenditures incurred in the preceding taxable year. The credit shall not exceed \$300,000 per taxable year.

C. The amount of the credit that may be claimed in any single taxable year shall not exceed the small business's liability for taxes imposed by this chapter for that taxable year. If the amount of the credit allowed under this section exceeds the small business's tax liability for the taxable year in which the credit was earned, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the small business in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

D. The Tax Commissioner shall develop guidelines for claiming the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

2. No credit may be claimed under this section for any qualified childcare expenditures incurred prior to July 1, 2024.

INTRODUCED

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