

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 58.1-337, 58.1-339.3, 58.1-436, and 58.1-439.5 of the Code of Virginia, relating to agricultural best management practices tax; agricultural equipment purchase tax credit; sunset date.

[H 1015]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-337, 58.1-339.3, 58.1-436, and 58.1-439.5 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-337. Tax credit for purchase of conservation tillage and precision agriculture equipment.

A. 1. For taxable years beginning on or after January 1, 2021, but before January 1, ~~2026~~ 2030, any individual engaged in agricultural production for market who has in place a soil conservation plan approved by the local soil and water conservation district and is implementing a nutrient management plan developed by a certified nutrient management planner in accordance with § 10.1-104.2 by the required tax return filing date of the individual shall be allowed a refundable credit against the tax imposed by § 58.1-320 of an amount equaling 25 percent of all expenditures made by such individual for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as reducing soil compaction such as a "no-till" planter, drill, or other equipment or equipment that provides more precise pesticide and fertilizer application or injection. For purposes of this section, equipment that reduces soil compaction includes equipment utilizing guidance systems to control traffic patterns that are designed to minimize the disturbance of soil in planting crops, including such planters, drills, or other equipment that may be attached to equipment already owned by the taxpayer.

2. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

- a. Sprayers for pesticides and liquid fertilizers;
- b. Pneumatic fertilizer applicators;
- c. Monitors, computer regulators, and height-adjustable booms for sprayers and liquid fertilizer applicators;
- d. Manure applicators;
- e. Tramline adapters; and
- f. Starter fertilizer banding attachments for planters.

3. The amount of such credit under this subsection shall not exceed \$17,500 in the year of purchase. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess may be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the individual applies for the refund.

4. For purposes of this subsection, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as reducing soil compaction or providing more precise pesticide and fertilizer application or injection by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

B. 1. For taxable years beginning before January 1, 2021, any individual engaged in agricultural production for market who has in place a nutrient management plan approved by the local soil and water conservation district by the required tax return filing date of the individual shall be allowed a credit against the tax imposed by § 58.1-320 of an amount equaling 25 percent of all expenditures made by such individual for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

- a. Sprayers for pesticides and liquid fertilizers;
- b. Pneumatic fertilizer applicators;

ENROLLED

HB1015ER

c. Monitors, computer regulators, and height-adjustable booms for sprayers and liquid fertilizer applicators;

d. Manure applicators;

e. Tramline adapters; and

f. Starter fertilizer banding attachments for planters.

2. The amount of such credit under subdivision 1 shall not exceed \$3,750 or the total amount of the tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against the income taxes of such individual in the next five taxable years until the total amount of the tax credit has been taken.

3. For purposes of this subsection, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

§ 58.1-339.3. Agricultural best management practices tax credit.

A. 1. As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board that will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent with other state and federal programs that address agricultural, nonpoint source pollution management. A detailed list of the standards and criteria for agricultural best management practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Manual" published annually prior to July 1 by the Department of Conservation and Recreation.

2. For all taxable years beginning on and after January 1, 1998, but before January 1, ~~2025~~ 2030, any individual who is engaged in agricultural production for market, or has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a soil conservation plan approved by the local Soil And Water Conservation District (SWCD), shall be allowed a refundable credit against the tax imposed by § 58.1-320 in an amount equaling 25 percent of the first \$100,000 expended for agricultural best management practices by the individual.

3. For all taxable years beginning on and after January 1, 2021, but before January 1, ~~2025~~ 2030, any individual who is engaged in agricultural production for market, or who has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a resource management plan approved by the local SWCD shall be allowed a refundable credit against the tax imposed by § 58.1-320 in an amount equaling 50 percent of the first \$100,000 expended for agricultural best management practices implemented by the individual on the acreage included in the resource management plan.

B. 1. Any eligible practice approved by the local Soil and Water Conservation District Board shall be completed within the taxable year in which the credit is claimed. After the practice installation has been completed, the local SWCD Board shall certify the practice as approved and completed, and eligible for credit. The applicant shall forward the certification to the Department of Taxation on forms provided by the Department. The credit shall be allowed only for expenditures made by the taxpayer from funds of his own sources.

2. To the extent that a taxpayer participates in the Virginia Agricultural Best Management Practices Cost-Share Program, the taxpayer may claim the credit under subdivision A 2 for any remaining liability after such cost-share, but may not claim the credit under subdivision A 3 for any such remaining liability, subject to the other provisions of this section. For purposes of this subdivision, "liability after such cost-share" means the limitation of the tax credits to the total costs incurred by the taxpayer for agricultural best management practices reduced by any funding received by participation in the Virginia Agricultural Best Management Practices Cost-Share Program.

C. 1. The aggregate amount of such credit claimed under subdivisions A 2 and 3 shall not exceed \$75,000 or the total amount of the tax imposed by this chapter, whichever is less, in the year the project was completed, as certified by the Board. Any taxpayer claiming a tax credit under this section shall not claim a credit under any similar Virginia law for costs related to the same eligible practices. A taxpayer may not claim credit for the same practice in the same management area under both subdivisions A 2 and A 3.

2. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess may be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the individual applies for the refund.

D. For purposes of this section, the amount of any credit attributable to agricultural best management practices by a pass-through entity such as a partnership, limited liability company, or electing small

business corporation (S Corporation) shall be allocated to the individual partners, members, or shareholders in proportion to their ownership or interest in such entity.

E. A pass-through tax entity, such as a partnership, limited liability company or electing small business corporation (S corporation), may appoint a tax matters representative, who shall be a general partner, member-manager or shareholder, and register that representative with the Tax Commissioner. The Tax Commissioner shall be entitled to deal with the tax matters representative as representative of the taxpayers to whom credits have been allocated by the entity under this article with respect to those credits. In the event a pass-through tax entity allocates tax credits arising under this article to its partners, members or shareholders and the allocated credits shall be disallowed, in whole or in part, such that an assessment of additional tax against a taxpayer shall be made, the Tax Commissioner shall first make written demand for payment of any additional tax, together with interest and penalties, from the tax matters representative. In the event such payment demand is not satisfied, the Tax Commissioner shall proceed to collection against the taxpayers in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.).

§ 58.1-436. Tax credit for purchase of conservation tillage and precision agricultural application equipment.

A. 1. For taxable years beginning on or after January 1, 2021, but before January 1, ~~2026~~ 2030, any corporation engaged in agricultural production for market which has in place a soil conservation plan approved by the local soil and water conservation district and is implementing a nutrient management plan developed by a certified nutrient management planner in accordance with § 10.1-104.2 by the required tax return filing date of the corporation shall be allowed a refundable credit against the tax imposed by § 58.1-400 in an amount equaling 25 percent of all expenditures made by such corporation for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as reducing soil compaction such as a "no-till" planter, drill, or other equipment or equipment that provides more precise pesticide and fertilizer application or injection. For purposes of this section, equipment that reduces soil compaction includes equipment utilizing guidance systems to control traffic patterns that are designed to minimize the disturbance of soil in planting crops, including such planters, drills, or other equipment that may be attached to equipment already owned by the taxpayer.

2. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

- a. Sprayers for pesticides and liquid fertilizers;
- b. Pneumatic fertilizer applicators;
- c. Monitors, computer regulators, and height-adjustable booms for sprayers and liquid fertilizer applicators;
- d. Manure applicators;
- e. Tramline adapters; and
- f. Starter fertilizer banding attachments for planters.

3. The amount of such credit under this subsection shall not exceed \$17,500 in the year of purchase. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess shall be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the taxpayer applies for the refund.

4. For purposes of this subsection, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as reducing soil compaction or providing more precise pesticide and fertilizer application or injection by a partnership or S corporation shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

B. 1. For taxable years beginning before January 1, 2021, any corporation engaged in agricultural production for market which has in place a nutrient management plan approved by the local soil and water conservation district by the required tax return filing date of the corporation shall be allowed a credit against the tax imposed by § 58.1-400 of an amount equaling 25 percent of all expenditures made by such corporation for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

- a. Sprayers for pesticides and liquid fertilizers;

- b. Pneumatic fertilizer applicators;
- c. Monitors, computer regulators, and height adjustable booms for sprayers and liquid fertilizer applicators;
- d. Manure applicators;
- e. Tramline adapters; and
- f. Starter fertilizer banding attachments for planters.

2. The amount of such credit under subdivision 1 shall not exceed \$3,750 or the total amount of the tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against the income taxes of such corporation in the next five taxable years until the total amount of the tax credit has been taken. Credits granted to a partnership or electing small business corporation (S corporation) shall be passed through to the partners or shareholders, respectively.

3. For purposes of this subsection, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application by a partnership or S corporation shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

§ 58.1-439.5. Agricultural best management practices tax credit.

A. 1. As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board that will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent with other state and federal programs that address agricultural, nonpoint source pollution management.

A detailed list of the standards and criteria for agricultural best management practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Implementation Manual" published by the Department of Conservation and Recreation.

2. For all taxable years beginning on and after January 1, 1998, but before January 1, ~~2025~~ 2030, any corporation engaged in agricultural production for market that has in place a soil conservation plan approved by the local Soil and Water Conservation District (SWCD) shall be allowed a refundable credit against the tax imposed by § 58.1-400 of an amount equaling 25 percent of the first \$100,000 expended for agricultural best management practices by the corporation.

3. For all taxable years beginning on and after January 1, 2021, but before January 1, ~~2025~~ 2030, any corporation that is engaged in agricultural production for market, or that has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a resource management plan approved by the local SWCD, shall be allowed a refundable credit against the tax imposed by § 58.1-400 in an amount equaling 50 percent of the first \$100,000 expended for agricultural best management practices implemented by the corporation on the acreage included in the resource management plan.

B. 1. Any eligible practice approved by the local Soil and Water Conservation District Board shall be completed within the taxable year in which the credit is claimed. After the practice installation has been completed, the local SWCD Board shall certify the practice as approved and completed, and eligible for credit. The applicant shall forward the certification to the Department of Taxation on forms provided by the Department. The credit shall be allowed only for expenditures made by the taxpayer from funds of his own sources.

2. To the extent that a taxpayer participates in the Virginia Agricultural Best Management Practices Cost-Share Program, the taxpayer may claim the credit under subdivision A 2 for any remaining liability after such cost-share, but may not claim the credit under subdivision A 3 for any such remaining liability, subject to the other provisions of this section. For purposes of this subdivision, "liability after such cost-share" means the limitation of the tax credits to the total costs incurred by the taxpayer for agricultural best management practices reduced by any funding received by participation in the Virginia Agricultural Best Management Practices Cost-Share Program.

C. 1. The aggregate amount of such credit claimed under subdivisions A 2 and 3 shall not exceed \$75,000 or the total amount of the tax imposed by this chapter, whichever is less, in the year the project was completed, as certified by the Board. Any taxpayer claiming a tax credit under this section shall not claim a credit under any similar Virginia law for costs related to the same eligible practices. A taxpayer may not claim credit for the same practice in the same management area under both subdivisions A 2 and A 3.

2. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess shall be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the taxpayer applies for the refund.

D. For purposes of this section, the amount of any credit attributable to agricultural best management practices by a partnership or electing small business corporation (S Corporation) shall be allocated to the

240 individual partners or shareholders in proportion to their ownership or interest in the partnership or S
241 Corporation.