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HOUSE BILL NO. 424

Offered January 24, 1994

A *BILL* to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-438.2, relating to the creation of an income tax credit for new Virginia business activity investment.

 Patron—DeBoer

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 58.1-438.2 as follows:

§ 58.1-438.2 Investment credit.

A. Effective for taxable years beginning on and after January 1, 1994, a taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by § 58.1-400 in an amount equaling ten percent of "new Virginia business activity investment," as hereinafter defined. "New Virginia business activity investment" is any investment that (i) would have qualified for the ten percent investment tax credit under § 46 of the Internal Revenue Code as it existed on December 31, 1985, and (ii) increases the taxpayer's numerator under §§ 58.1-409, 58.1-412, or 58.1-414 from the amount used on the taxpayer's Virginia tax return for the immediately preceding taxable year. Subdivision (ii) shall be applied *mutatis mutandis* to corporations not using the three-factor formula apportionment method. In the case of a corporation's first taxable year, the numerator under § 58.1-409 shall be assumed to be zero in the preceding taxable year. Corporations described under § 58.1-405 need only meet the requirements under subdivision (i) above.

B. The amount of the credit allowed pursuant to this section shall not exceed the tax imposed pursuant to § 58.1-400 and shall be determined in accordance with the following schedule:

Return for taxable year	Amount of credit
1994	\$ 3,750
1995	7,500
1996	15,000
1997	30,000

C. Any tax credit not usable for the taxable year the investment was made may be carried over to the extent usable for the next five succeeding taxable years or until the full credit is utilized, whichever is sooner. Credits granted to a partnership or S corporation shall be passed through to the partners or shareholders, respectively.

D. A taxpayer shall not be allowed a credit under this section with respect to leased property, either as lessor or lessee. Any contract or agreement to lease or rent or for a license to use such property shall be considered a lease for purposes of this section.

E. The Tax Commissioner shall promulgate regulations providing for additions to federal taxable income, so that a taxpayer may not claim depreciation deductions for amounts claimed for investment credit purposes, and so that the gain or loss, on the sale of assets upon which a Virginia investment tax credit was taken, may be adjusted to exclude the Virginia investment tax credit taken on the assets sold.

INTRODUCED

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