

House Bill 1463

By: Representative Royal of the 164<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,  
2 relating to the imposition, rate, and computation of income tax, so as to provide for an  
3 income tax credit for certain high technology business investment; to provide for definitions;  
4 to provide for conditions and limitations; to provide for powers, duties, and authority of the  
5 state revenue commissioner with respect to the foregoing; to provide an effective date; to  
6 provide for applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the  
10 imposition, rate, and computation of income tax, is amended by adding a new Code section  
11 immediately following Code Section 48-7-40.23, to be designated Code Section 48-7-40.24,  
12 to read as follows:

13 "48-7-40.24.

14 (a) As used in this Code section, the term:

15 (1) 'Net income tax liability' means net income tax liability reduced by all other credits  
16 allowed under this chapter.

17 (2) 'Qualified high technology business' means a business employing or owning capital  
18 or property or maintaining an office in this state, provided that:

19 (A) More than 50 percent of its total business activities are qualified research; and  
20 provided, further, that the business conducts more than 75 percent of its qualified  
21 research in this state; or

22 (B) More than 75 percent of its gross income is derived from qualified research; and  
23 provided, further, that this income is received from:

24 (i) Products sold from, manufactured in, or produced in this state; or

25 (ii) Services performed in this state.

1 (3) 'Qualified research' means qualified research within the meaning of Section 41 of the  
2 Internal Revenue Code of 1986, as amended.

3 (b) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter  
4 a high technology business investment tax credit that shall be deductible from the  
5 taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in  
6 which the investment was made and the following four years provided the credit is properly  
7 claimed. The tax credit shall be as follows:

8 (1) In the year the investment was made, 35 percent of the investment made by the  
9 taxpayer in each qualified high technology business, up to \$700,000.00;

10 (2) In the first year following the year in which the investment was made, 25 percent of  
11 the investment made by the taxpayer in each qualified high technology business, up to  
12 \$500,000.00;

13 (3) In the second year following the investment, 20 percent of the investment made by  
14 the taxpayer in each qualified high technology business, up to \$400,000.00;

15 (4) In the third year following the investment, 10 percent of the investment made by the  
16 taxpayer in each qualified high technology business, up to \$200,000.00; and

17 (5) In the fourth year following the investment, 10 percent of the investment made by the  
18 taxpayer in each qualified high technology business, up to \$200,000.00.

19 (c) The credit allowed under this Code section shall be claimed against the net income tax  
20 liability for the taxable year.

21 (d) If the tax credit under this Code section exceeds the taxpayer's income tax liability for  
22 any of the five years that the credit is taken, the excess of the tax credit over liability may  
23 be used as a credit against the taxpayer's income tax liability in subsequent years until  
24 exhausted. Every claim, including amended claims, for a tax credit under this Code section  
25 shall be filed on or before the end of the twelfth month following the close of the taxable  
26 year for which the credit may be claimed. Failure to comply with the foregoing provision  
27 shall constitute a waiver of the right to claim the credit.

28 (e) The credit claimed under this Code section shall be recaptured if at the close of any  
29 taxable year in the five-year period provided for in subsection (b) of this Code section:

30 (1) The business no longer qualifies as a qualified high technology business;

31 (2) The business or an interest in the business has been sold by the taxpayer investing in  
32 the qualified high technology business; or

33 (3) The taxpayer has withdrawn the taxpayer's investment wholly or partially from the  
34 qualified high technology business.

35 (f) The recapture under subsection (e) of this Code section shall be equal to 10 percent of  
36 the amount of the total tax credit claimed under this Code section in the preceding two  
37 taxable years. The amount of the credit recaptured shall apply only to the investment in

1 the particular qualified high technology business that meets the requirements of subsection  
2 (e) of this Code section. The recapture provisions of this subsection shall not apply to a tax  
3 credit claimed for a qualified high technology business that does not fall within the  
4 provisions of subsection (e) of this Code section. The amount of the recaptured tax credit  
5 determined under this subsection shall be added to the taxpayer's tax liability for the  
6 taxable year in which the recapture occurs under this subsection.

7 (g) The commissioner shall be authorized to promulgate any rules and regulations  
8 necessary to implement and administer the provisions of this Code section."

9 **SECTION 2.**

10 This Act shall become effective on January 1, 2003, and shall be applicable to all taxable  
11 years beginning on or after that date.

12 **SECTION 3.**

13 All laws and parts of laws in conflict with this Act are repealed.