

House Bill 611

By: Representative Jamieson of the 22nd

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 taxes, so as to allow a corporate
3 taxpayer to assign a Georgia income tax credit to an affiliated corporation; to provide terms,
4 conditions, and limitations; to provide for an effective date and applicability; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
9 imposition, rate, and computation of income taxes, is amended by adding a new Code section
10 immediately following Code Section 48-7-42, to be designated Code Section 48-7-43, to read
11 as follows:

12 "48-7-43.

13 (a) In lieu of claiming any Georgia income tax credit for which a corporate taxpayer
14 otherwise is eligible for the taxable year (such eligibility being determined for this purpose
15 without regard to any limitation imposed by reason of the taxpayer's pre-credit income tax
16 liability), the taxpayer may elect to assign such credit in its entirety to another corporation
17 that is a member of the taxpayer's 'affiliated group' (within the meaning of Section 1504(a)
18 of the Internal Revenue Code), or that was a member of the taxpayer's affiliated group on
19 the effective date of this Code section, for such taxable year by attaching a statement to the
20 taxpayer's return for the taxable year; provided, however, that no carryover attributable to
21 the unused portion of any previously claimed or assigned credit may be assigned or
22 reassigned, except as provided in subsection (c) of this Code section. In the case of any
23 credit that must be claimed in installments in more than one taxable year, the election under
24 this subsection may be made on an annual basis with respect to each such installment,
25 provided that the taxpayer shall notify the commissioner with respect to the assignment of
26 each such installment by filing a separate copy of the election statement for such

1 installment no later than the time of filing of the taxpayer's state income tax return for such
2 taxable year. Once made, an election under this subsection shall be irrevocable.

3 (b) The recipient of a tax credit assigned under subsection (a) of this Code section shall
4 attach a statement to its return identifying the assignor of the tax credit, in addition to
5 providing any other information required to be provided by a claimant of the assigned tax
6 credit.

7 (c) If the assignor and the recipient of a tax credit assigned under subsection (a) of this
8 Code section cease to be members of the same affiliated group, any carryover attributable
9 to the unused portion of such credit shall be transferred back to the assignor of the credit.
10 Such assignor shall be permitted to use any such carryover itself, and also shall be
11 permitted to assign such carryover to a member of the assignor's affiliated group, as if such
12 carryover were an income tax credit for which the assignor became eligible in the taxable
13 year in which the carryover was transferred back to the assignor.

14 (d) The assignor and recipient of a tax credit assigned under subsection (a) of this Code
15 section shall be jointly and severally liable for any tax (plus interest and penalties, if any)
16 attributable to the disallowance or recapture of the assigned credit."

17 **SECTION 2.**

18 This Act shall become effective upon its approval by the Governor or upon its becoming law
19 without such approval and shall apply to taxable years beginning on or after January 1, 2001.

20 **SECTION 3.**

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