House Bill 1516

By: Representative Parrish of the 102nd

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions with respect to state income taxes, so as to change certain provisions regarding tax credits for existing manufacturing and telecommunications facilities in tier 1, 2, 3, and 4 counties; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

SECTION 1.

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions with respect to state income taxes, is amended by striking subsection (b) of Code Section 48-7-40.2, relating to income tax credits for existing manufacturing and telecommunications facilities in tier 1 counties, and inserting in its place a new subsection (b) to read as follows:

"(b)(1) In the case of a taxpayer which has operated for the immediately preceding three years an existing manufacturing or telecommunications facility or manufacturing or telecommunications support facility in this state in a tier 1 county designated pursuant to Code Section 48-7-40, there shall be allowed a credit against the tax imposed under this article in an amount equal to 5 percent of the cost of all qualified investment property purchased or acquired by the taxpayer in such year, subject to the conditions and limitations set forth in this Code section.

(2) Solely for purposes of satisfying the three-year requirement in paragraph (1) of this subsection, a taxpayer that is a 'wireless telecommunications carrier' under North American Industry Classification System Code 5172 and classified as a partnership for state income tax purposes shall be deemed to have operated an existing facility during such time that its partner or its partner´s affiliate operated such facility.

(3) In the event such qualified investment property purchased or acquired by the taxpayer in such year consists of recycling machinery or equipment, a recycling manufacturing facility, pollution control or prevention machinery or equipment, a pollution control or

prevention facility, or the conversion from defense to domestic production, the amount of such credit shall be equal to 8 percent.″

SECTION 2.

Said article is further amended by striking paragraph (2) of subsection (c) of Code Section 48-7-40.2, relating to income tax credits for existing manufacturing and telecommunications facilities in tier 1 counties, and inserting in its place a new paragraph (2) to read as follows:

″(2)(A) Any credit claimed under this Code section but not used in any taxable year may be carried forward for ten years from the close of the taxable year in which the qualified investment property was acquired, provided that such qualified investment property remains in service. The credit established by this Code section taken in any one taxable year shall be limited to an amount not greater than 50 percent of the taxpayer´s state income tax liability which is attributable to income derived from operations in this state for that taxable year. The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility in any succeeding taxpayer, but any unused credit may be transferred and continued by any transferee of the taxpayer~~;~~.

(B) In the case of a taxpayer that is a 'wireless telecommunications carrier' under North American Industry Classification System Code 5172, where the amount of such credit exceeds 50 percent of the state income tax liability of such taxpayer which is attributable to income derived from operations in this state for that taxable year, including because such taxpayer is classified as a partnership that does not pay state income tax, the excess may be taken as a credit against the quarterly or monthly payment under Code Section 48-7-103 of such taxpayer or its wholly owned affiliate. Each employee whose employer receives credit against such quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount that would be credited against such liability prior to the application of the credit provided for in this subparagraph. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subparagraph shall not constitute income to the taxpayer.″

SECTION 3.

Said article is further amended by striking subsection (b) of Code Section 48-7-40.3, relating to income tax credits for existing manufacturing and telecommunications facilities in tier 2 counties, and inserting in its place a new subsection (b) to read as follows:

"(b)(1) In the case of a taxpayer which has operated for the immediately preceding three years an existing manufacturing or telecommunications facility or manufacturing or telecommunications support facility in this state in a tier 2 county designated pursuant to Code Section 48-7-40, there shall be allowed a credit against the tax imposed under this article in an amount equal to 3 percent of the cost of all qualified investment property purchased or acquired by the taxpayer in such year, subject to the conditions and limitations set forth in this Code section.

(2) Solely for purposes of satisfying the three-year requirement in paragraph (1) of this subsection, a taxpayer that is a 'wireless telecommunications carrier' under North American Industry Classification System Code 5172 and classified as a partnership for state income tax purposes shall be deemed to have operated an existing facility during such time that its partner or its partner´s affiliate operated such facility.

(3) In the event such qualified investment property purchased or acquired by the taxpayer in such year consists of recycling machinery or equipment, a recycling manufacturing facility, pollution control or prevention machinery or equipment, a pollution control or prevention facility, or the conversion from defense to domestic production, the amount of such credit shall be equal to 5 percent."

SECTION 4.

Said article is further amended by striking paragraph (2) of subsection (c) of Code Section 48-7-40.3, relating to income tax credits for existing manufacturing and telecommunications facilities in tier 2 counties, and inserting in its place a new paragraph (2) to read as follows:

"(2)(A) Any credit claimed under this Code section but not used in any taxable year may be carried forward for ten years from the close of the taxable year in which the qualified investment property was acquired, provided that such qualified investment property remains in service. The credit established by this Code section taken in any one taxable year shall be limited to an amount not greater than 50 percent of the taxpayer´s state income tax liability which is attributable to income derived from operations in this state for that taxable year. The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility in any succeeding taxpayer, but any unused credit may be transferred and continued by any transferee of the taxpayer~~;~~.

(B) In the case of a taxpayer that is a 'wireless telecommunications carrier' under North American Industry Classification System Code 5172, where the amount of such credit exceeds 50 percent of the state income tax liability of such taxpayer which is attributable to income derived from operations in this state for that taxable year, including because such taxpayer is classified as a partnership that does not pay state income tax, the excess may be taken as a credit against the quarterly or monthly payment under Code Section 48-7-103 of such taxpayer or its wholly owned affiliate. Each employee whose employer receives credit against such quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount that would be credited against such liability prior to the application of the credit provided for in this subparagraph. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subparagraph shall not constitute income to the taxpayer.″

SECTION 5.

Said article is further amended by striking subsection (b) of Code Section 48-7-40.4, relating to income tax credits for existing manufacturing and telecommunications facilities in tier 3 or 4 counties, and inserting in its place a new subsection (b) to read as follows:

(b)(1) In the case of a taxpayer which has operated for the immediately preceding three years an existing manufacturing or telecommunications facility or manufacturing or telecommunications support facility in this state in a tier 3 or a tier 4 county designated pursuant to Code Section 48-7-40, there shall be allowed a credit against the tax imposed under this article in an amount equal to 1 percent of the cost of all qualified investment property purchased or acquired by the taxpayer in such year, subject to the conditions and limitations set forth in this Code section.

(2) Solely for purposes of satisfying the three-year requirement in paragraph (1) of this subsection, a taxpayer that is a 'wireless telecommunications carrier' under North American Industry Classification System Code 5172 and classified as a partnership for state income tax purposes shall be deemed to have operated an existing facility during such time that its partner or its partner´s affiliate operated such facility.

(3) In the event such qualified investment property purchased or acquired by the taxpayer in such year consists of recycling machinery or equipment, a recycling manufacturing facility, pollution control or prevention machinery or equipment, a pollution control or prevention facility, or the conversion from defense to domestic production, the amount of such credit shall be equal to 3 percent.″

SECTION 6.

Said article is further amended by striking paragraph (2) of subsection (c) of Code Section 48-7-40.4, relating to income tax credits for existing manufacturing and telecommunications facilities in tier 3 or 4 counties, and inserting in its place a new paragraph (2) to read as follows:

"(2)(A) Any credit claimed under this Code section but not used in any taxable year may be carried forward for ten years from the close of the taxable year in which the qualified investment property was acquired, provided that such qualified investment property remains in service. The credit established by this Code section taken in any one taxable year shall be limited to an amount not greater than 50 percent of the taxpayer´s state income tax liability which is attributable to income derived from operations in this state for that taxable year. The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility in any succeeding taxpayer, but any unused credit may be transferred and continued by any transferee of the taxpayer~~;~~.

(B) In the case of a taxpayer that is a 'wireless telecommunications carrier' under North American Industry Classification System Code 5172, where the amount of such credit exceeds 50 percent of the state income tax liability of such taxpayer which is attributable to income derived from operations in this state for that taxable year, including because such taxpayer is classified as a partnership that does not pay state income tax, the excess may be taken as a credit against the quarterly or monthly payment under Code Section 48-7-103 of such taxpayer or its wholly owned affiliate. Each employee whose employer receives credit against such quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount that would be credited against such liability prior to the application of the credit provided for in this subparagraph. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subparagraph shall not constitute income to the taxpayer."

SECTION 7.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2004.

SECTION 8.

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