

House Bill 536

By: Representative Jamieson of the 28th

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 imposition, rate, computation, and exemptions with respect to state income taxes,
3 so as to change certain provisions regarding tax credits for existing manufacturing and
4 telecommunications facilities in tier 1, 2, 3, and 4 counties; to provide an effective date; to
5 provide for applicability; to repeal 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
9 imposition, rate, computation, and exemptions with respect to state income taxes, is amended
10 by striking paragraph (2) of subsection (c) of Code Section 48-7-40.2, relating to income tax
11 credits for existing manufacturing and telecommunications facilities in tier 1 counties, and
12 inserting in its place a new paragraph (2) to read as follows:

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

23 (B) In the case of a taxpayer that is a 'wireless telecommunications carrier' under North
24 American Industry Classification System Code 5172, where the amount of such credit
25 exceeds 50 percent of the state income tax liability of such taxpayer which is
26 attributable to income derived from operations in this state for that taxable year,

1 including because such taxpayer is classified as a partnership that does not pay state
 2 income tax, the excess may be taken as a credit against the quarterly or monthly
 3 payment under Code Section 48-7-103 of such taxpayer or its wholly owned affiliate.
 4 Each employee whose employer receives credit against such quarterly or monthly
 5 payment under Code Section 48-7-103 shall receive credit against his or her income tax
 6 liability under Code Section 48-7-20 for the corresponding taxable year for the full
 7 amount that would be credited against such liability prior to the application of the credit
 8 provided for in this subparagraph. Credits against quarterly or monthly payments under
 9 Code Section 48-7-103 and credits against liability under Code Section 48-7-20
 10 established by this subparagraph shall not constitute income to the taxpayer."

11 SECTION 2.

12 Said article is further amended by striking paragraph (2) of subsection (c) of Code Section
 13 48-7-40.3, relating to income tax credits for existing manufacturing and telecommunications
 14 facilities in tier 2 counties, and inserting in its place a new paragraph (2) to read as follows:

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

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

1 Code Section 48-7-103 and credits against liability under Code Section 48-7-20
 2 established by this subparagraph shall not constitute income to the taxpayer."

3 SECTION 3.

4 Said article is further amended by striking paragraph (2) of subsection (c) of Code Section
 5 48-7-40.4, relating to income tax credits for existing manufacturing and telecommunications
 6 facilities in tier 3 or 4 counties, and inserting in its place a new paragraph (2) to read as
 7 follows:

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

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

32 SECTION 4.

33 This Act shall become effective upon its approval by the Governor or upon its becoming law
 34 without such approval and shall be applicable to all taxable years beginning on or after
 35 January 1, 2005.

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SECTION 5.

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