

HOUSE BILL NO. 473

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance

on _____)

(Patron Prior to Substitute--Delegate Coyner)

A BILL to amend the Code of Virginia by adding in Article 4 of Chapter 3 of Title 58.1 a section numbered 58.1-357 and by adding in Article 14 of Chapter 3 of Title 58.1 a section numbered 58.1-456, relating to income tax; penalties and interest; employee retention credit.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 4 of Chapter 3 of Title 58.1 a section numbered 58.1-357 and by adding in Article 14 of Chapter 3 of Title 58.1 a section numbered 58.1-456 as follows:

§ 58.1-357. Federal employee retention credit; waiver of penalties and interest.

A. For purposes of this section:

"Eligible employer" means the same as that term is defined in the federal authorizing acts.

"Employee retention credit" means the federal employee retention tax credit authorized by the federal authorizing acts.

"Federal authorizing acts" means, as applicable for the period of time for which the employee retention credit is claimed, § 2301 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020) §§ 206 and 303 of the federal Taxpayer Certainty and Disaster Tax Relief Act, P.L. 116-260 (Division EE of the Consolidated Appropriations Act, 2021), § 9651 of the American Rescue Plan Act, P.L. 117-2 (2021), and § 80604 of the federal Infrastructure Investment and Jobs Act, P.L. 117-58 (2021).

"Qualified wages" means the same as that term is defined in the federal authorizing acts.

B. For taxable years beginning on and after January 1, 2019, but before January 1, 2022, the Tax Commissioner shall have the authority to waive interest imposed pursuant to this chapter on any taxpayer

27 that (i) is an eligible employer that paid qualified wages to some or all of its employees after March 12,
28 2020, and before January 1, 2022; (ii) claimed an employee retention credit for payment of such qualified
29 wages; (iii) files an amended return for such years after claiming the employee retention credit; and (iv)
30 is found to have an additional tax liability for such years due to the reduction in the amount of wages paid
31 that may be claimed as a deduction as a result of claiming such credit. Such waiver of interest shall be
32 allowed only for the portion of unpaid taxes that is the result of claiming the employee retention credit.

33 **§ 58.1-456. Federal employee retention credit; waiver of interest.**

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36 "Employee retention credit" means the federal employee retention tax credit authorized by the
37 federal authorizing acts.

38 "Federal authorizing acts" means, as applicable for the period of time for which the employee
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40 P.L. 116-136 (2020) §§ 206 and 303 of the federal Taxpayer Certainty and Disaster Tax Relief Act, P.L.
41 116-260 (Division EE of the Consolidated Appropriations Act, 2021), § 9651 of the American Rescue
42 Plan Act, P.L. 117-2 (2021), and § 80604 of the federal Infrastructure Investment and Jobs Act, P.L. 117-
43 58 (2021).

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