WEST virginia legislature

2023 regular session

Introduced

Senate Bill 438

By Senators Clements, Swope, Chapman, and Nelson

[Introduced January 23, 2023; referred  
to the Committee on Finance]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, and §11-13MM-6, all relating to creating the Return to West Virginia Tax Credit Act; providing for a title, findings, and purpose; providing for a non-refundable credit against state personal income taxes; providing a definition; providing for limitations and eligibility requirements of the credit; authorizing legislative rule; authorizing the Tax Commissioner to create forms and require documentation; providing for effective and expiration dates of the credit; and requiring reporting.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13MM. return to west virginia tAX CREDIT ACT.

§11-13MM-1. Short title.

This article may be cited as the Return to West Virginia Tax Credit Act.

§11-13MM-2. Findings and purpose.

The Legislature finds that it is an important public policy to encourage former West Virginians to return home and seek employment in West Virginia. West Virginia is enjoying low unemployment rates and seeks the return of West Virginians who have been gone because they, or their family members, felt the need to pursue employment opportunities outside of the state. In furtherance of its findings and as an incentive to return home and work in the state, the purpose of this article is to create a non-refundable credit against state personal income taxes.

§11-13MM-3. Amount and limitation of credit.

There is allowed to an eligible taxpayer a non-refundable credit against taxes imposed by §11-21-1 *et seq*. of this code in the amount $25,000. If the total amount of the credit authorized by this article is not used in any tax year, the unused portion of the credit may be applied to a future tax year to which this credit applies: *Provided*, That the total amount of the credit claimed by an eligible taxpayer may not exceed $25,000. No carryback to a prior taxable year is allowed for any unused portion of the credit.

§11-13MM-4. Eligibility for credit; definition.

"Eligible taxpayer " as used in this article means an individual in this state who meets the following criteria:

(1) The individual resided and was employed in West Virginia for a minimum of 10 years; or the individual was born in West Virginia; and

(2) The individual has not been a resident of West Virginia for at least 10 consecutive years preceding the year 2023; and

(3) The individual became a West Virginia resident again on or after January 1, 2023.

§11-13MM-5. Legislative rules; authority of the Tax Commissioner.

(a) The Tax Commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code as may be necessary to carry out the purpose of this article.

(b) The Tax Commissioner may create forms and require the submission of documentation from any taxpayer who claims entitlement to the credit authorized by this article in order to verify such entitlement.

§11-13MM-6. Effective date and expiration of credit; reporting.

(a) The credit authorized in this article may be claimed after December 31, 2023.

(b) The credit authorized in this article shall expire and not be authorized or applied for any taxable year after December 31, 2029.

(c) On or before July 1, 2024, and annually thereafter for as long as the credit authorized in this article may be claimed, the Tax Commissioner shall provide an annual report in an electronic format to the Joint Committee on Government and Finance setting forth details concerning the utilization of the credit, including the number of taxpayers claiming the credit, the number of taxpayers deemed eligible or ineligible by the Tax Commissioner to receive the credit, benefits realized as a result of the credit, and the annual amount of the credit.