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H.110

Introduced by Representatives Scheuermann of Stowe, Bancroft of Westford,
Beck of St. Johnsbury, Brennan of Colchester, Burditt of
West Rutland, Conquest of Newbury, Dakin of Colchester,
Greshin of Warren, Keefe of Manchester, LaClair of
Barre Town, Olsen of Londonderry, Parent of St. Albans Town,
Sibilia of Dover, Tate of Mendon, and Wright of Burlington

Referred to Committee on

Date:

Subject: Taxation; income tax; capital gains

Statement of purpose of bill as introduced: This bill proposes to exclude a
percentage of capital gains from Vermont's income tax if those gains are
reinvested in a Vermont company.

An act relating to excluding reinvested capital gains from Vermont's
income tax

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 32 V.S.A. § 5811(21)(B) is amended to read:

(B) Decreased by the following items of income (to the extent such
income is included in federal adjusted gross income):

(i) income from U.S. government obligations;

1 (ii) with respect to adjusted net capital gain income as defined in
2 26 U.S.C. § 1(h), reduced by the total amount of any qualified dividend
3 income, and further reduced by an amount equal to 60 percent of any qualified
4 reinvestment under section 5930v of this title: either the first \$5,000.00 of
5 such adjusted net capital gain income; or 40 percent of adjusted net capital gain
6 income from the sale of assets held by the taxpayer for more than three years,
7 except not adjusted net capital gain income from:

8 (I) the sale of any real estate or portion of real estate used by
9 the taxpayer as a primary or nonprimary residence; or

10 (II) the sale of depreciable personal property other than farm
11 property and standing timber; or stocks or bonds publicly traded or traded on
12 an exchange, or any other financial instruments; regardless of whether sold by
13 an individual or business;

14 ~~And~~(III) provided that the total amount of decrease under this
15 subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable
16 income; and

17 (iii) recapture of State and local income tax deductions not taken
18 against Vermont income tax.

1 Sec. 2. 32 V.S.A. § 5930v is added to read:

2 § 5930v. REINVESTMENT EXCLUSION

3 (a) A qualified taxpayer who makes an eligible venture capital investment
4 may claim an exclusion of capital gains income under subdivision 5811(21)(B)
5 of this chapter.

6 (b)(1) The maximum aggregate investment in any one qualified business
7 for which a single qualified investor may receive an exclusion under this
8 section is limited to \$500,000.00 in any three consecutive years.

9 (2) The maximum aggregate investment in any one qualified business
10 for which all qualified investors may receive an exclusion under this section is
11 limited to \$5,000,000.00.

12 (c)(1) To claim an exclusion pursuant to this section, a qualified taxpayer
13 shall submit to the Vermont Economic Progress Council documentation and
14 any additional information requested by the Council necessary to demonstrate
15 compliance with the requirements of this section.

16 (2) The Council, upon review and confirmation of the qualified
17 taxpayer's eligibility for an exclusion, shall issue a certificate to the taxpayer,
18 who shall file the certificate with the Department of Taxes with his or her State
19 income tax return for the applicable year.

1 (d) As used in this section:

2 (1) “At-risk debt” means debt which is not secured, is not guaranteed by
3 a substantial owner of the business, will not be repaid for at least five years, or
4 bears a reasonable rate of interest.

5 (2) “Eligible venture capital investment” means not more than
6 \$500,000.00 of total investment by one person, which is equity or at-risk debt
7 investment in one qualified business, for expenditure by the qualified business
8 on the plant, equipment, research, and development, or as working capital in
9 Vermont.

10 (3) “Qualified business” means a business that:

11 (A) has its principal place of business in this State;

12 (B) had in the year preceding the investment annual gross sales of not
13 more than \$3,000,000.00; and

14 (C)(i) is primarily engaged in manufacturing; or

15 (ii) is a knowledge-based business:

16 (I) whose value is based on intellectual property rights or
17 similar intangible assets; and

18 (II) whose primary purpose is to apply knowledge to
19 differentiate itself from other businesses through research, design,

20 development, or novel adaptation of inventions, original works, industrial

1 designs, computer software, information technology, or similar innovative
2 intellectual products and services.

3 (4) “Qualified taxpayer” means a taxpayer who is not a substantial
4 owner of the qualified business.

5 (5) “Substantial owner” means a person who, after the investment, has
6 greater than 40 percent ownership interest in the qualified business, including
7 attribution of ownership interests of the individual’s spouse, parents, spouse’s
8 parents, siblings, and children, or is a person who is controlled by, or has
9 actual control of, the qualified business through any combination of ownership
10 and management.

11 Sec. 3. EFFECTIVE DATE

12 This act shall take effect on January 1, 2018 and apply to tax year 2018 and
13 after.