H.291

Introduced by Representatives Scheuermann of Stowe, Mattos of Milton, Morrissey of Bennington, Strong of Albany, and Toof of St. Albans Town

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 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

* * *

(21) "Taxable income" means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

* * *

(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;

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

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

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income;

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) the portion of federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; and

* * *

(28) "Taxable income" means, in the case of an estate or a trust, federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

* * *

(B) decreased by the following items of income:

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

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

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

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (28)(B)(ii) shall not exceed 40 percent of federal taxable income; and

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

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

§ 5930v. REINVESTMENT EXCLUSION

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

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

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

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

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

(d) As used in this section:

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

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

(3) "Qualified business" means a business that:

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

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

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

(ii) is a knowledge-based business:

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

(II) whose primary purpose is to apply knowledge to differentiate itself from other businesses through research, design, development, or novel adaptation of inventions, original works, industrial designs, computer software, information technology, or similar innovative intellectual products and services.

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

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2020 and apply to tax year 2020 and after.