

House Bill 425

By: Representative Carson of the 46th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-40.12 of the Official Code of Georgia Annotated, relating to
2 an income tax credit for qualified research expenses, so as to revise the requirement for the
3 alternative simplified credit; to provide for related matters; to provide for an effective date
4 and applicability; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 48-7-40.12 of the Official Code of Georgia Annotated, relating to an income
8 tax credit for qualified research expenses, is amended as follows:

9 "48-7-40.12.

10 (a) As used in this Code section, the term:

11 (1) 'Alternative simplified credit' means the credit defined in Section 41 of the Internal
12 Revenue Code of 1986, as amended, except that the credit shall equal 7 percent and the
13 qualified research expenses must be related to research conducted within Georgia.

14 ~~(1)~~(2) 'Base amount' means the product of a business enterprise's Georgia gross receipts
15 in the current taxable year and the average of the ratios of its aggregate qualified research
16 expenses to Georgia gross receipts for the preceding three taxable years or 0.300,
17 whichever is less; provided, however, that a business enterprise need not have had a
18 positive taxable net income for the preceding three taxable years in order to claim the
19 credit provided in this Code section. For purposes of this paragraph, 'Georgia gross
20 receipts' shall be the numerator of the gross receipts factor provided in subsection (d) of
21 Code Section 48-7-31.

22 ~~(2)~~(3) 'Broadcasting' means the transmission or licensing of audio, video, text, or other
23 programming content to the general public, subscribers, or to third parties via radio,
24 television, cable, satellite, or the Internet or Internet Protocol and includes motion picture
25 and sound recording, editing, production, postproduction, and distribution. 'Broadcasting'
26 is limited to establishments classified under the 2007 North American Industry

27 Classification System Codes 515, broadcasting; 519, Internet publishing and
28 broadcasting; 517, telecommunications; and 512, motion picture and sound recording
29 industries.

30 ~~(3)~~(4) 'Business enterprise' means any business or the headquarters of any such business
31 which is engaged in manufacturing, warehousing and distribution, processing,
32 telecommunications, broadcasting, tourism, and research and development industries.
33 Such term shall not include retail businesses.

34 ~~(4)~~(5) 'Qualified research expenses' means qualified research expenses for any business
35 enterprise as that term is defined in Section 41 of the Internal Revenue Code of 1986, as
36 amended, except that all wages paid and all purchases of services and supplies must be
37 for research conducted within the State of Georgia.

38 (b) A tax credit is allowed a business enterprise which has qualified research expenses in
39 Georgia in a taxable year exceeding a base amount, provided that the business enterprise
40 for the same taxable year claims and is allowed a research credit under Section 41 of the
41 Internal Revenue Code of 1986, as amended.

42 (c) The tax credit provided in subsection (b) of this Code section shall be 10 percent of the
43 excess over the base amount referred to in said subsection, unless the business enterprise
44 elects the alternative simplified credit.

45 (d) Any unused credit claimed under this Code section may be carried forward ten years
46 from the close of the taxable year in which the qualified research expenses were made. The
47 credit taken in any one taxable year shall not exceed 50 percent of the business enterprise's
48 remaining Georgia net income tax liability after all other credits have been applied.

49 (e) Where the amount of a credit claimed under this Code section exceeds 50 percent of
50 the business enterprise's remaining Georgia net income tax liability after all other credits
51 have been applied in a taxable year, the excess may be taken as a credit against such
52 taxpayer's quarterly or monthly payment under Code Section 48-7-103. Each employee
53 whose employer receives credit against such taxpayer's quarterly or monthly payment
54 under Code Section 48-7-103 shall receive a credit against his or her income tax liability
55 under Code Section 48-7-20 for the corresponding taxable year for the full amount which
56 would be credited against such liability prior to the application of the credit provided for
57 in this subsection. Credits against quarterly or monthly payments under Code Section
58 48-7-103 and credits against liability under Code Section 48-7-20 established by this
59 subsection shall not constitute income to the taxpayer.

60 (f) Any credit earned under this Code section in any taxable year beginning before January
61 1, 2012, and any credit carryforward attributable thereto, shall be governed by this Code
62 section as in effect for the taxable year in which such credit was earned, including, but not
63 limited to, when determining whether such credit or any credit carryforward may be taken

64 as a credit against the taxpayer's quarterly or monthly payments under Code Section
65 48-7-103."

66 **SECTION 2.**

67 This Act shall become effective on July 1, 2019, and shall be applicable to all taxable years
68 beginning on or after January 1, 2020.

69 **SECTION 3.**

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