



# COMMONWEALTH of VIRGINIA

## *Department of Taxation*

November 26, 2008

The Honorable Charles J. Colgan  
Chairman, Senate Finance Committee  
10677 Aviation Lane  
Manassas, Virginia 20110

The Honorable Lacey E. Putney  
Chairman, House Appropriations Committee  
Post Office Box 127  
Bedford, Virginia 24523

The Honorable Harry R. Purkey  
Chairman, House Finance Committee  
2352 Leeward Shore Drive  
Virginia Beach, Virginia 23451

Re: Preliminary Corporate Tax Preference Report for 2007 Returns

Dear Chairmen:

Acts of Assembly 2006, Chapter 216, codified at Section 58.1-202 of the *Code of Virginia*, requires the Tax Commissioner to file an annual report detailing the total amount of corporate income tax relief provided in the Commonwealth. The preliminary report is due December 1 of each year with the final report due the following April 15. This is the preliminary version of the report issued pursuant to this legislation.

This preliminary report includes the total dollar amount of income tax subtractions claimed cumulatively by corporations on returns processed through November 1, 2008, and identifies each tax credit claimed by corporations. The April 15 report will also include additional returns filed after November 1, and audit adjustments to the returns. The amounts in this report are preliminary and subject to change with the addition of those returns and with further analysis and review. The data capturing process includes various tests for data integrity and TAX must manually review and correct any discrepancies before the information is available.

Fiscal impact estimates in April will likely be significantly higher than the preliminary estimates reported here. The largest corporate taxpayers typically file extensions and their complex returns often require special processing; therefore, many of the largest taxpayers are not included in this report. The April 15 report will also not have a complete data for Taxable Year 2007 because roughly half of corporations file on a fiscal year basis, and many may not have filed by that date. For example, a fiscal



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year beginning December 1, 2007, would end November 30, 2008, and the return may be filed under extension as late as September 15, 2009. TAX needs several months to process returns and resolve errors before complete data for a taxable year are available.

#### Amount of Corporate Income Tax Relief

Corporations claimed \$57.41 billion in subtractions on their TY2007 Virginia income tax returns processed by November 1, 2008. The fiscal impact of these subtractions, \$47.64 million, is much less than the amount of subtractions claimed multiplied by the 6% tax rate for several reasons:

- The amount claimed as subtractions is the amount deducted from federal taxable income, which may represent world-wide income. Corporations operating across Virginia's borders must allocate and apportion income to determine the portion of their income attributable to activity in Virginia.
- Corporations may not be profitable. If so, their Virginia subtractions have no fiscal impact this year, but may have a fiscal impact in the taxable year to which the losses may be carried under federal net operating loss carryover rules.
- The Virginia corporate income tax rate is 6% of the taxable income, which is after allocation and apportionment in the case of a multistate corporation. The subtractions are claimed before allocation and apportionment.

#### Claimed Tax Credits

The fiscal impact of the credits claimed on returns processed as of November 1, 2008, is \$2.59 million. Of this amount, \$2.58 million is attributable to nonrefundable credits. The fiscal impact of the nonrefundable credits may be less than the credit earned by corporations for this taxable year. Corporations that do not have sufficient income to use all of their credits may carry the excess amount over to following years. TAX's system does not collect information on the amounts carried over, so the amount is not readily available.

Attached is a table listing the credits available to corporations and the amount claimed for each on returns that have been processed. In order to prevent the release of information that would allow the public to identify taxpayers, especially those in a small industry, who have claimed a credit and the amount of the credit, TAX does not release any category of information unless there are at least four taxpayers in the group. Therefore, information on certain credits has been omitted from the attached table.

As of November 1, the total fiscal impact of the corporate tax credits for Taxable Year 2007 came from only approximately half of the credits offered by the Commonwealth of Virginia to corporations. The fiscal impact for both subtractions and credits to date for Taxable Year 2007 is:

Subtractions	\$47.64 million
Credits	<u>2.59 million</u>
Total Fiscal Impact	\$50.23 million

Please let me know if you have any questions.

Sincerely,



Janie E. Bowen  
Tax Commissioner

JEB/ams

### Appendix A

#### Tax Credits Claimed on 2007 Returns Processed Through November 1, 2008

<u>Code Section</u>	<u>Credit</u>	<u>Fiscal Impact</u>
§ 58.1-339.2	Historic Rehabilitation Tax Credit	<i>Not Available*</i>
§ 58.1-339.9	Rent Reduction Program Credit	\$0
§ 58.1-400.3	Electric Suppliers Minimum Tax Credit	\$0
§ 58.1-432	Conservation Tillage Equipment Credit	\$12,855
§ 58.1-433.1	Coal Employment and Production Incentive Tax Credit	\$0
§ 58.1-435	Low – Income Housing Credit	\$0
§ 58.1-436	Advanced Technology Fertilizer and Pesticide Application Equipment Credit	<i>Not Available*</i>
§ 58.1-438.1	Vehicle Emissions Testing Equipment and Clean-Fuel Vehicle and Certain Refueling Property Credit	\$0
§ 58.1-439	Major Business Facility Job Tax Credit	\$0
§ 58.1-439.1	Clean Fuel Vehicle Job Creation Tax Credit	\$0
§ 58.1-439.2	Coalfield Employment Enhancement Tax Credit (Refundable)	<i>Not Available*</i>
§ 58.1-439.4	Day-Care Facility Investment Credit	\$0
§ 58.1-439.5	Agricultural Best Management Practices Tax Credit	\$21,320
§ 58.1-439.6	Worker Retraining Credit	<i>Not Available*</i>
§ 58.1-439.7	Recyclable Materials Processing Equipment Credit	\$142,339
§ 58.1-439.10	Waste Motor Oil Burning Equipment Credit	\$10,618
§ 58.1-439.11	Employees with Disabilities Tax Credit	\$0
§ 58.1-439.12	Riparian Forest Buffer for Waterways Credit	\$0
§ 58.1-439.12:01	Cigarette Export Credit	\$0
§ 58.1-512	Land Preservation Tax Credit	\$2,162,444
§ 59.1-280	Enterprise Zone Act Credit	<i>Not Available*</i>
§ 59.1-280.1	Real Property Improvement Tax Credit (Refundable)	\$0
§ 63.2-2003	Neighborhood Assistance Act Credit	\$123,224

\* Data for some credits are not available for release because fewer than four returns claiming the credit have been processed.