



COMMONWEALTH of VIRGINIA

Department of Taxation

April 15, 2009

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

The Honorable Lacey E. Putney
Chairman, House Appropriations
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: Corporate Tax Preference Report

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 final version of the report issued in December of 2008 pursuant to this act.

This report identifies each tax credit claimed by corporations and also includes the total dollar amount of income tax subtractions claimed cumulatively by corporations on Taxable Year 2007 returns processed through March 31, 2009. Additional returns may have been received, but not processed, and would not be in the data for this report. The data capturing process includes various tests for data integrity and TAX must manually review and correct any discrepancies before the information is available.

In addition, this report does not have complete data for Taxable Year 2007 because some corporations file on a fiscal year basis. For example, a fiscal 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.

Pursuant to Acts of Assembly 2009, Chapter 24, TAX will no longer required to provide a preliminary report on corporate income tax preferences December 1. Beginning



October 1, 2009, TAX will provide its report for the second preceding taxable year, or Taxable Year 2007. This will allow TAX to provide a report that includes the complete data for the taxable year.

Income Tax Subtractions Claimed

Corporations claimed \$125 billion in subtractions on their TY2007 Virginia income tax returns processed through March 31, 2009. The fiscal impact of these subtractions, \$144.49 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.
- Certain electric suppliers and telecommunications companies may be required to pay a minimum tax. If so, their Virginia subtractions may have no fiscal impact if the minimum tax is higher than the income tax.

Claimed Tax Credits

The fiscal impact of the credits claimed on returns processed as of March 31, 2009, is \$35.72 million. Of this amount, \$19.6 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. The amount of credits earned but carried over to other taxable years is not readily available because TAX's system does not capture this information from the tax returns.

Attached is a table listing the credits available and the amount claimed for each on the processed returns. 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 March 31, 2009, 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.

The fiscal impact for both subtractions and credits through March 31, 2009, for Taxable Year 2007 is:

Subtractions	\$144.49 million
Credits	<u>\$ 35.72 million</u>
Total Fiscal Impact	\$180.21 million

Please let me know if you have any questions.

Sincerely,



Janie E. Bowen
Tax Commissioner

Attachment

Appendix A
Tax Credits Claimed on Returns Processed Through March, 2009

<u>Code Section</u>	<u>Credit</u>	<u>Fiscal Impact</u>
§ 58.1-339.2	Historic Rehabilitation Tax Credit	\$130,131
§ 58.1-339.9	Rent Reduction Program Credit	<i>Not Available*</i>
§ 58.1-400.3	Electric Suppliers Minimum Tax Credit	\$0
§ 58.1-432	Conservation Tillage Equipment Credit	\$12,855
§ 58.1-433	Qualifying Cogenerators and Small Power Producers Credit	\$0
§ 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	\$4,314,469
§ 58.1-439.1	Clean Fuel Vehicle Job Creation Tax Credit	\$0
§ 58.1-439.2	Coalfield Employment Enhancement Tax Credit (Refundable)	\$16,086,132
§ 58.1-439.4	Day-Care Facility Investment Credit	\$0
§ 58.1-439.5	Agricultural Best Management Practices Tax Credit	\$24,396
§ 58.1-439.6	Worker Retraining Credit	<i>Not Available*</i>
§ 58.1-439.7	Recyclable Materials Processing Equipment Credit	\$1,632,917
§ 58.1-439.10	Waste Motor Oil Burning Equipment Credit	\$17,613
§ 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	\$2,962,716
§ 59.1-280	Enterprise Zone Act Credit	\$4,232,188
§ 59.1-280.1	Real Property Improvement Tax Credit (Refundable)	\$0
§ 63.2-2003	Neighborhood Assistance Act Credit	\$299,132

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