



# COMMONWEALTH of VIRGINIA

## *Department of Taxation*

September 28, 2010

### Combined Report on Corporate Tax Preferences and the Major Business Facility Job Tax Credit

Dear Legislator:

*Virginia Code* § 58.1-202 requires the Tax Commissioner to submit an annual report detailing the total amount of corporate income tax relief provided in the Commonwealth by October 1 of each year. Acts of Assembly 2010, Chapter 379, amended *Va. Code* § 58.1-202 to require the Tax Commissioner to include summary information regarding the types of taxpayers who claim corporate income tax relief. In addition, this legislation now requires the Tax Commissioner to include the information previously reported on the major business facility job tax credit with the October 1 corporate preferences report. This is the first version of the combined report required by the 2010 amendments.

This report identifies the types of corporate taxpayers claiming corporate preferences during Taxable Year 2008 ("TY 2008"), including the filing status and the North American Industry Classification System ("NAICS") code of such taxpayers. This report also identifies each tax credit claimed by corporations and includes the total dollar amount of income tax subtractions claimed cumulatively by corporations on TY 2008 returns processed by September 1, 2010. In addition to information about corporate preferences claimed for the 2008 taxable year, this report also identifies the number of corporate and individual taxpayers claiming the major business facility job tax credit for TY 2008 and the amount of such credit claimed through August 2010.

Because most corporations filed on a fiscal year basis, this report includes most, but not all, corporations that filed on a fiscal year basis for TY 2008. For example, a fiscal year beginning December 1, 2008 would end November 30, 2009, and the return may be filed under extension as late as September 15, 2010. TAX needs several months to process returns and resolve errors before complete data for a taxable year are available. The data capturing process includes various tests for data integrity and TAX must manually review and correct any discrepancies before the information is available.

#### Types of Returns

Of the taxpayers that claimed corporate tax preferences on a TY 2008 tax return that was filed on or before September 1, 2010, approximately 90.99% filed a separate

return; approximately 6.81% filed a consolidated return; and approximately 2.2% filed a combined return.

## **SUBTRACTIONS**

### Types of Taxpayers

The types of taxpayers claiming subtractions on TY 2008 corporate returns were broken down into industries by NAICS codes. Of the corporate taxpayers that claimed subtractions on a TY 2008 return that was filed by September 1, 2010, the largest percentage were self-reported to be in the real estate and rental and leasing (12.88%); manufacturing (9.53%); professional, scientific, and technical services (7.92%); retail trade (6.65%); and wholesale trade (6.18%) sectors. Appendix A contains a table listing the NAICS codes provided by corporate taxpayers and the number of corporate taxpayers that reported each code.

### Amount of Subtractions Claimed

Corporations claimed approximately \$148 billion in subtractions on their TY 2008 Virginia income tax returns processed by September 1, 2010. The fiscal impact of these subtractions, \$98.84 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. 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.
- 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.
- 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.

## CREDITS

### Types of Taxpayers

The types of taxpayers claiming credits on TY 2008 corporate returns were broken down into industries by NAICS codes. Of the corporate taxpayers that claimed credits on a TY 2008 return filed by September 1, 2010, the largest percentage were self-reported to be in the manufacturing (9.89%); retail trade (9.89%); wholesale trade (8.24%); real estate and rental and leasing (7.14%); and professional, scientific, and technical services (4.4%) sectors.

Appendix B contains a table listing the NAICS codes provided by corporate taxpayers claiming tax credits for TY 2008 and the number of corporate taxpayers that reported each code. Please note that data for certain NAICS sectors are unavailable for release because fewer than four returns have been processed for that sector. Accordingly, these sectors have been grouped into a category entitled "Other NAICS Codes."

### Amount of Tax Credits Claimed

The fiscal impact of the tax credits claimed on TY 2008 returns processed as of September 1, 2010, is \$17.5 million. Of this amount, \$11.52 million is attributable to nonrefundable credits. The fiscal impact of the nonrefundable credits may be less than the credit actually 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.

Appendix C contains 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 credit claimed by such taxpayers, 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 table in Appendix C.

As of September 1, 2010, over 99% of the total fiscal impact of the corporate tax credits for TY 2008 came from seven of the credits offered by the Commonwealth of Virginia. For six of the credits, taxpayers claimed less than \$25,000. Ten of the credits were not claimed.

The fiscal impact for both subtractions and credits claimed by September 1, 2010, for TY 2008 is:

Subtractions	\$	98.84 million
Credits	\$	<u>17.50 million</u>
Total Fiscal Impact	\$	116.34 million

### **MAJOR BUSINESS FACILITY JOB TAX CREDIT**

Based on tax returns processed through August 2010, 104 corporate and individual taxpayers claimed a total amount of \$1,953,421 major business facility job tax credits. Of the total amount of credit claimed, 91 individual taxpayers claimed credits of \$9,217 and 13 corporate taxpayers claimed credits of \$1,944,024.

To calculate the major business facility job tax credit, a company multiplies the number of full-time employees at a new or expanded major business facility that exceed the threshold amount by \$1,000. The threshold amount is 100 employees, except in economically distressed areas and enterprise zones, where it is 50. The credit is typically claimed at the rate of one-third annually and may not exceed the taxpayer's liability. For Taxable Years 2009 through 2012, however, the credit may be claimed over two years instead of three. Unused credits may be carried forward for ten years.

Please note that for qualified full-time employees first hired on or after January 1, 2010, the threshold amount for the credit has changed. The amount is now 50 employees, except in economically distressed areas and enterprise zones, where it is 25.

Please let me know if you have any questions.

Sincerely,



Craig M. Burns  
Acting Tax Commissioner

Attachments

## Appendix A

<b>Corporations with TY 2008 Subtractions by NAICS Sector (Returns Processed By September 1, 2010)</b>			
<b><u>NAICS Code</u></b>		<b><u>Taxpayers</u></b>	<b><u>Percentage</u></b>
11	Agriculture, Forestry, Fishing, and Hunting	32	0.54%
21	Mining, Quarrying, and Oil and Gas Extraction	24	0.41%
23	Utilities	11	0.19%
23	Construction	190	3.22%
31-33	Manufacturing	563	9.53%
42	Wholesale Trade	365	6.18%
44-45	Retail Trade	393	6.65%
48-49	Transportation and Warehousing	90	1.52%
51	Information	86	1.46%
52	Finance and Insurance	290	4.91%
53	Real Estate and Rental and Leasing	761	12.88%
54	Professional, Scientific, and Technical Services	468	7.92%
55	Management of Companies and Enterprises	243	4.11%
56	Administrative, Support, Waste Management, and Remediation Services	80	1.35%
61	Educational Services	11	0.19%
62	Health Care and Social Assistance	62	1.05%
71	Arts, Entertainment, and Recreation	49	0.83%
72	Accommodation and Food Services	90	1.52%
81, 92	Other Services (including Public Administration)	139	2.35%
	Unknown*	1,960	33.18%
<b>TOTAL</b>		<b>5,907</b>	<b>100.00%</b>

\* Some corporations do not provide an NAICS code. These corporations are categorized as "Unknown."

## Appendix B

<b>Corporations Claiming Credits in TY 2008 by NAICS Sector (Returns Processed By September 1, 2010)</b>		
<u>NAICS Code</u>	<u>Taxpayers</u>	<u>Percentage</u>
21 Mining, Quarrying, and Oil and Gas Extraction	4	2.20%
23 Utilities	0	0.00%
23 Construction	7	3.85%
31-33 Manufacturing	18	9.89%
42 Wholesale Trade	15	8.24%
44-45 Retail Trade	18	9.89%
52 Finance and Insurance	7	3.85%
53 Real Estate and Rental and Leasing	13	7.14%
54 Professional, Scientific, and Technical Services	8	4.40%
56 Administrative, Support, Waste Management, and Remediation Services	6	3.30%
61 Educational Services	0	0.00%
81, 92 Other Services (including Public Administration)	4	2.20%
Other NAICS Codes**	13	7.14%
Unknown*	69	37.91%
<b>TOTAL</b>	<b>182</b>	<b>100.00%</b>

\* Some corporations do not provide an NAICS code. These corporations are categorized as "Unknown."

\*\* Data for some NAICS sectors are not available for release because fewer than four returns in that sector have been processed. Accordingly, these credits have been grouped into a category entitled "Other NAICS Codes."

### Appendix C

<b>Tax Credits Claimed on TY 2008 Returns Processed By September 1, 2010</b>		
<u>Code Section</u>	<u>Credit</u>	<u>Fiscal Impact</u>
§ 58.1-339.2	Historic Rehabilitation Tax Credit	\$5,476,688
§ 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	\$12,857
§ 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	\$1,944,204
§ 58.1-439.1	Clean Fuel Vehicle Job Creation Tax Credit	\$0
§ 58.1-439.2	Coalfield Employment Enhancement Tax Credit (Refundable)	\$5,984,923
§ 58.1-439.4	Day-Care Facility Investment Credit	\$0
§ 58.1-439.5	Agricultural Best Management Practices Tax Credit	\$20,016
§ 58.1-439.6	Worker Retraining Credit	<i>Not Available*</i>
§ 58.1-439.7	Recyclable Materials Processing Equipment Credit	\$725,654
§ 58.1-439.10	Waste Motor Oil Burning Equipment Credit	\$17,653
§ 58.1-439.12	Riparian Forest Buffer Protection for Waterways Credit	\$0
§ 58.1-439.12:01	Cigarette Export Credit	\$0
§ 58.1-439.12:02	Biodiesel and Green Diesel Fuels Producers Tax Credit	\$0
§ 58.1-439.18 et seq.	Neighborhood Assistance Act Credit	\$359,517
§ 58.1-512	Land Preservation Tax Credit	\$2,721,100
§ 59.1-280	Enterprise Zone Business Tax Credit	\$213,088
§ 59.1-280.1	Enterprise Zone Real Property Investment Tax Credit (Refundable)	\$0

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