



COMMONWEALTH of VIRGINIA

Department of Taxation

October 1, 2013

Combined Report on Corporate Tax Preferences, the Major Business Facility Job Tax Credit, and the Modified Method of Apportionment for Manufacturing Companies

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 report identifies the types of corporate taxpayers claiming corporate preferences during Taxable Year 2011 ("TY 2011"), 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 2011 returns that were processed by September 1, 2013. This report identifies the number of corporate and individual taxpayers claiming the Major Business Facility Job Tax Credit for TY 2011 and the amount of such credit claimed through August 2013. In addition to information about corporate preferences claimed for the 2011 taxable year, this report also identifies the number of corporate taxpayers that elected to use the modified method of apportionment for manufacturers on TY 2011 returns that were processed by September 1, 2013.

Because some corporations file on a fiscal year basis, this report includes most, but not all, corporations that filed on a fiscal year basis for TY 2011. For example, a fiscal year beginning December 1, 2011 would end November 30, 2012, and the return may be filed under extension as late as September 16, 2013. Thus, this return would not be included in this report.

The Department of Taxation (“the Department”) 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 the Department must manually review and correct any discrepancies before the information is available. The information contained in this report is based on data that was reported by taxpayers on their annual tax returns. Some of these returns may be subject to audit in the future and the credits and subtractions claimed by some taxpayers may be adjusted. Accordingly, the data in this report may differ from that included in other reports, such as the Department’s Annual Report, where the data reported takes into account audit adjustments, amended returns, and other relevant changes.

Types of Returns

Of the taxpayers that claimed corporate tax preferences on a TY 2011 Corporate Income Tax return that was processed on or before September 1, 2013, approximately 89.84% filed a separate return; approximately 7.19% filed a consolidated return; and approximately 2.97% filed a combined return.

SUBTRACTIONS

Types of Taxpayers

The types of taxpayers claiming subtractions on TY 2011 corporate returns were broken down into industries using NAICS codes. Of the corporate taxpayers that claimed subtractions on a TY 2011 return that was processed by September 1, 2013, the largest percentage were self-reported to be in the professional, scientific, and technical services (17.00%); manufacturing (16.98%); finance and insurance (8.99%); and real estate and rental and leasing (8.56%) 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 \$145.59 billion in subtractions on their TY 2011 Virginia Corporate Income Tax returns that were processed by September 1, 2013. The fiscal impact of these subtractions, \$462.87 million, is much less than the amount of subtractions that were 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 the 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 2011 corporate returns were broken down into industries using NAICS codes. Of the corporate taxpayers that claimed credits on a TY 2011 return that was filed by September 1, 2013, the largest percentage were self-reported to be in the agriculture, forestry, fishing and hunting (19.16%); manufacturing (18.22%); professional, scientific, and technical services (14.95%); and wholesale trade (10.28%) sectors.

Appendix B contains a table listing the NAICS codes provided by corporate taxpayers claiming tax credits for TY 2011 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 2011 returns processed as of September 1, 2013, is \$28.30 million. Of this amount, \$8.92 million is attributable to non-refundable 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 subsequent years. The amount of credits earned but carried over to other taxable years is not readily available because the Department's system does not capture this information from the tax returns.

Appendix C contains a table listing the credits that are 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, the Department 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, 2013, more than 98% of the total fiscal impact of the corporate tax credits for TY 2011 came from nine of the credits offered by the Commonwealth of Virginia. For six of the credits, taxpayers claimed less than \$30,000. Eleven of the available credits were not claimed by any taxpayer.

The fiscal impact for both subtractions and credits claimed by September 1, 2013, for TY 2011 is approximately:

Subtractions	\$	462.87 million
Credits	\$	<u>28.30 million</u>
Total Fiscal Impact	\$	491.17 million

MAJOR BUSINESS FACILITY JOB TAX CREDIT

Based on TY 2011 tax returns processed through August 2013, 143 taxpayers claimed a total of \$1,011,212 Major Business Facility Job Tax Credits. Of the total amount, 134 individual taxpayers claimed credits totaling \$68,936 and 9 corporations claimed a total of \$942,276 in credits.

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 50 employees, except in economically distressed areas and enterprise zones, where it is 25. 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 2014, however, the credit may be claimed

over two years instead of three. Unused credits may be carried forward for up to ten years.

MODIFIED METHOD OF APPORTIONMENT FOR MANUFACTURERS

During the 2009 General Assembly Session, the Virginia General Assembly passed House Bill 2437, which allows qualified manufacturing companies to elect to use a modified method of apportionment based on sales to determine their Virginia taxable income. The modified method of apportionment for manufacturing companies is phased-in as follows:

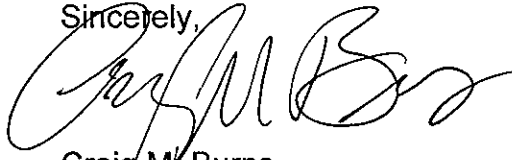
- For taxable years beginning on or after July 1, 2011, but before July 1, 2013, qualifying corporations may elect to use a triple-weighted sales factor;
- For taxable years beginning on or after July 1, 2013, but before July 1, 2014, qualifying corporations may elect to use a quadruple-weighted sales factor; and
- For taxable years beginning on or after July 1, 2014, and thereafter, qualifying corporations may elect to use the single sales factor method to apportion Virginia taxable income.

In order for a corporation to use the modified method of apportionment for manufacturing companies, the corporation must be a qualified manufacturing company, must maintain at least 90 percent of base year employment for the first three taxable years in which the election is made, and must certify to the Department that the average weekly wage of its full-time employees is greater than the lower of the state or local average weekly wages for the taxpayer's industry. Qualifying manufacturing companies that elect to use the modified method of apportionment for manufacturing companies may not revoke the election for three taxable years.

Based on TY 2011 tax returns that were processed through August 2013, 18 corporate taxpayers elected to use the modified method of apportionment for manufacturing companies. As of September 1, 2013, the fiscal impact for corporate taxpayers that elected to use the modified method of apportionment for manufacturing companies for TY 2011 was \$140,000.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig M. Burns". The signature is fluid and cursive, with the first name "Craig" being the most prominent.

Craig M. Burns
Tax Commissioner

c: The Honorable Richard D. Brown, Secretary of Finance

Attachments

Appendix A

Corporations with TY 2011 Subtractions by NAICS Sector (Returns Processed By September 1, 2013)			
	<u>NAICS Code</u>	<u>Taxpayers</u>	<u>Percentage</u>
11	Agriculture, Forestry, Fishing, and Hunting	59	0.99%
21	Mining, Quarrying, and Oil and Gas Extraction	34	0.57%
22	Utilities	24	0.40%
23	Construction	433	7.24%
31-33	Manufacturing	1,016	16.98%
42	Wholesale Trade	402	6.72%
44-45	Retail Trade	391	6.53%
48-49	Transportation and Warehousing	167	2.79%
51	Information	209	3.49%
52	Finance and Insurance	538	8.99%
53	Real Estate and Rental and Leasing	512	8.56%
54	Professional, Scientific, and Technical Services	1,017	17.00%
55	Management of Companies and Enterprises	335	5.60%
56	Administrative, Support, Waste Management, and Remediation Services	226	3.78%
61	Educational Services	44	0.74%
62	Health Care and Social Assistance	205	3.43%
71	Arts, Entertainment, and Recreation	62	1.04%
72	Accommodation and Food Services	101	1.69%
81	Other Services (except Public Administration)	161	2.69%
	Unknown*	48	0.80%
	TOTAL	5,984	100.00%

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

Appendix B

Corporations Claiming Credits in TY 2011 by NAICS Sector (Returns Processed By September 1, 2013)			
	<u>NAICS Code</u>	<u>Taxpayers</u>	<u>Percentage</u>
11	Agriculture, Forestry, Fishing, and Hunting	41	19.16%
21	Mining, Quarrying, and Oil and Gas Extraction	6	2.80%
23	Construction	8	3.74%
31-33	Manufacturing	39	18.22%
42	Wholesale Trade	22	10.28%
44-45	Retail Trade	13	6.07%
48-49	Transportation and Warehousing	3	1.40%
51	Information	5	2.34%
52	Finance and Insurance	6	2.80%
53	Real Estate and Rental and Leasing	12	5.61%
54	Professional, Scientific, and Technical Services	32	14.95%
55	Management of Companies and Enterprises	13	6.07%
56	Administrative, Support, Waste Management, and Remediation Services	4	1.87%
	Other NAICS Codes*	10	4.67%
	TOTAL	214	100.00%

** Data for some NAICS sectors are not available for release because fewer than four returns in that sector have been processed or because the taxpayer failed to report its NAICS Code. Accordingly, these credits have been grouped into a category entitled "Other NAICS Codes."*

Appendix C

Tax Credits Claimed on TY 2011 Returns Processed By September 1, 2013		
<u>Code Section</u>	<u>Credit</u>	<u>Fiscal Impact</u>
§ 58.1-339.2	Historic Rehabilitation Tax Credit	\$759,247
§ 58.1-339.7	Livable Home Tax Credit	\$0
§ 58.1-339.9	Rent Reductions Tax Credit	\$0
§ 58.1-339.12	Farm Wineries and Vineyards Tax Credit	<i>Not Available*</i>
§ 58.1-400.3	Electric Suppliers Minimum Tax Credit	\$0
§ 58.1-432	Conservation Tillage Equipment Tax Credit	\$11,333
§ 58.1-433.1	Coal Employment and Production Incentive Tax Credit	<i>Not Available*</i>
§ 58.1-435	Low-Income Housing Tax Credit	\$0
§ 58.1-436	Advanced Technology Pesticide and Fertilizer Application Equipment Tax Credit	\$4,988
§ 58.1-438.1	Vehicle Emissions Testing Equipment, Clean-Fuel Vehicle and Certain Refueling Property Tax Credit	\$0
§ 58.1-439	Major Business Facility Job Tax Credit	\$942,276
§ 58.1-439.1	Clean Fuel Vehicle and Advanced Cellulosic Biofuels Job Creation Tax Credit	<i>Not Available*</i>
§ 58.1-439.2	Coalfield Employment Enhancement Tax Credit (Refundable)	\$18,338,782
§ 58.1-439.4	Day-Care Facility Investment Tax Credit	\$0
§ 58.1-439.5	Agricultural Best Management Practices Tax Credit	\$26,590
§ 58.1-439.6	Worker Retraining Tax Credit	<i>Not Available*</i>
§ 58.1-439.7	Recyclable Materials Processing Equipment Tax Credit	\$656,344
§ 58.1-439.10	Waste Motor Oil Burning Equipment Tax Credit	\$11,975
§ 58.1-439.12	Riparian Forest Buffer Protection for Waterways Tax Credit	\$0
§ 58.1-439.12:01	Cigarette Export Tax Credit	\$0
§ 58.1-439.12:02	Biodiesel and Green Diesel Fuels Producers Tax Credit	\$0
§ 58.1-439.12:03	Motion Picture Production Tax Credit	\$0
§ 58.1-439.12:06	International Trade Facility Tax Credit	<i>Not Available*</i>
§ 58.1-439.12:08	Research and Development Expenses Tax Credit	\$1,045,889
§ 58.1-439.12:09	Barge and Rail Usage Tax Credit	\$0

Tax Credits Claimed on TY 2011 Returns Processed By September 1, 2013

<u>Code Section</u>	<u>Credit</u>	<u>Fiscal Impact</u>
§ 58.1-439.12:10	Port Volume Increase Tax Credit	<i>Not Available*</i>
§ 58.1-439.18 et seq.	Neighborhood Assistance Act Tax Credit	\$755,431
§ 58.1-512	Land Preservation Tax Credit	\$2,512,114
§ 59.1-280	Enterprise Zone Business Tax Credit	\$597,444
§ 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.*