

# PUBLIC DRAFT

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Comments Due by: **April 11, 2025**

## SC REVENUE RULING #25-xx [**PUBLIC DRAFT – 3/20/2025**]

- SUBJECT:** Credit Against the Corporate License Fee (Utility License Fee Credit)
- EFFECTIVE DATE:** Applies to all periods open under statute
- SUPERSEDES:** SC Revenue Ruling #96-11, SC Revenue Ruling #99-6, SC Revenue Ruling #18-8, and all previous advisory opinions and any oral directives in conflict herewith.
- REFERENCES:** S.C. Code Ann. § 12-6-3420 (2014)  
S.C. Code Ann. § 12-20-100 (2014)  
S.C. Code Ann. § 12-20-105 (2014; Supp. 2023)
- AUTHORITY:** S.C. Code Ann. § 12-4-320 (2014)  
SC Revenue Procedure #09-3
- SCOPE:** The purpose of a Revenue Ruling is to provide guidance to the public. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department’s position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

This revenue ruling addresses changes made to section 12-20-105 of the South Carolina Code, which provides a credit against the license fee imposed by section 12-20-100. This revenue ruling supersedes Department guidance published in SC Revenue Rulings #96-11, #99-6, and #18-8. It incorporates questions from the previous documents and answers additional questions concerning the credit that have arisen since those documents were issued.

This revenue ruling is divided into the following sections:

- A. Background on Corporate License Fees and the License Fee Credit Under Section 12-20-105 of the South Carolina Code
- B. Eligible Project
- C. Qualifying Infrastructure
- D. General Questions about the Utility License Fee Credit

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E. Exhibit A - sections 12-20-10 and 12-20-105

## **A. Background on Corporate License Fees and the License Fee Credit Under Section 12-20-105<sup>1</sup> of the South Carolina Code**

Chapter 20, Title 12 of the South Carolina Code imposes two types of corporation license fees. The first type is the general corporate license fee imposed on most corporations by section 12-20-50 of the South Carolina Code. It is calculated based upon capital stock and paid-in or capital surplus. In the place of the license fee imposed by section 12-20-50, section 12-20-100 imposes a second type of license fee on “every express company, street railway company, navigation company, waterworks company, power company, electric cooperative, light company, gas company, telegraph company, and telephone company.”<sup>2</sup> This license fee is commonly referred to as the “Utility License Fee.”<sup>3</sup> The Utility License Fee is calculated based on 1) One dollar for each thousand dollars (or fraction thereof) of the fair market value of property owned and used by the taxpayer in this State in the conduct of its business; and 2) Three dollars for each thousand dollars (or fraction thereof) for services rendered in this State from a regulated business.<sup>4</sup>

Section 12-20-105 of the South Carolina Code provides a credit against the Utility License Fee. This credit is only available for companies paying the Utility License Fee imposed by section 12-20-100.<sup>5</sup> This credit has historically been referred to as the “Utility License Fee Credit.”<sup>6</sup>

A taxpayer may claim the Utility License Fee Credit for amounts paid in cash to an eligible project (as discussed below) if that cash is used to provide qualifying infrastructure (as defined below) for the project, subject to the limits provided in section 12-20-105.<sup>7</sup>

The maximum aggregate Utility License Fee Credit that may be claimed in a single taxable year by a taxpayer is \$600,000 for all contributions to all eligible projects. However, if the taxpayer’s

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<sup>1</sup> S.C. Code Ann. § 12-20-105 is attached as Exhibit A to this revenue ruling.

<sup>2</sup> Telephone companies do not include cell phone companies. See Alltel Communications v. South Carolina Department of Revenue, 399 S.C. 313, 731 S.E. 2d 869 (2012).

<sup>3</sup> S.C. Code Ann. § 12-20-100.

<sup>4</sup> At one time the corporations subject to this fee were strictly utilities. However, the types of corporations currently subject to the fee under section 12-20-100 goes beyond utilities. Nevertheless, for purposes of this ruling we will refer to this fee as the Utility License Fee.

<sup>5</sup> The “Utility License Fee” in section 12-20-100 is based upon the value of property used in the business in South Carolina and the gross receipts from “regulated business” conducted within South Carolina. The types of corporations listed pay a fee that is at least in part based on the value of the property component, but because the gross receipts included are only those from regulated business, this component is zero if the corporation conducts no regulated business in this state.

<sup>6</sup> Taxpayers paying the general corporate license fee under section 12-20-50 are not eligible to claim the Utility License Fee Credit against that fee. In addition, a taxpayer may not claim the Utility License Fee Credit against any other tax or fee such as corporate income tax or sales and use tax.

<sup>7</sup> Similar to the Utility License Fee, this credit applies to more corporations than just utilities. For purposes of this ruling, we will refer to the credit as the “Utility License Fee Credit.”

<sup>8</sup> S.C. Code Ann. § 12-20-105(A).

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contribution is to a single eligible project located in a Tier II, III, or IV County pursuant to section 12-6-3360(B), the taxpayer is entitled to an additional credit in the following amounts:<sup>8</sup>

County Designation	Amount of Additional Credit
Tier II	\$ 50,000
Tier III	\$100,000
Tier IV	\$150,000

A special rule applies if the single eligible project extends across a county boundary. In these instances, the project is considered to be located in the county with the lowest credit amount unless at least 80% of the total project costs are attributable to the portion of the project located in the higher credit county.<sup>9</sup>

The credit cannot reduce the taxpayer's Utility License Fee liability below zero. If the credit originally earned during a taxable year exceeds the taxpayer's Utility License Fee liability, the amount of the excess may be carried forward to the next year.<sup>10</sup>

*Note:* A taxpayer may not claim the credit for actual expenses it incurs in the construction or operation of any building or infrastructure it owns, manages, or operates.<sup>11</sup> In addition, a taxpayer claiming the Utility License Fee Credit may not also claim the Infrastructure Credit<sup>12</sup> for the same expenses.<sup>13</sup>

## B. Eligible Project

A project qualifies as an "eligible project" in one of three ways.

(I) It qualifies for one of the following tax incentives:

- Income tax credits under Chapter 6, Title 12 (e.g., jobs tax credits).
- Withholding tax credits under Chapter 10, Title 12 (e.g., job development credits).
- Income tax credits under Chapter 14, Title 12 (e.g., investment tax credits).

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<sup>8</sup> S.C. Code Ann. § 12-20-105(E)(1) and (2). County Tiers are defined in S.C. Code Ann. § 12-6-3360(B) and are listed by the Department each year in an Information Letter.

<sup>9</sup> S.C. Code Ann. § 12-20-105(E)(3).

<sup>10</sup> S.C. Code Ann. § 12-20-105(F). See Section D., Question 1 for an example of the carryforward.

<sup>11</sup> S.C. Code Ann. § 12-20-105(D).

<sup>12</sup> Section 12-6-3420 allows a taxpayer a credit against South Carolina **corporate income taxes** imposed by section 12-6-530 or **bank taxes** imposed by section 12-11-20 for construction or improvement of an infrastructure project consisting of water or sewer lines or fixed transportation facilities ("Infrastructure Credit"). This revenue ruling only addresses questions concerning the Utility License Fee Credit and does not address the Infrastructure Credit.

<sup>13</sup> S.C. Code Ann. § 12-20-105(G).

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- Fee in lieu of property taxes under Chapter 12, Title 4; Chapter 29, Title 4; or Chapter 44, Title 12.<sup>14</sup>

(II) The project is located in an office, business, commercial, or industrial park, or a combination of these, and:

- It is used exclusively for economic development; and
- It is owned or constructed by a county, political subdivision or agency of this State when the qualifying improvements are paid for.<sup>15</sup>

(III) The project is a county-owned or municipality-owned multiuse sports and recreation complex located in a county in which at least \$5 million in state accommodations tax pursuant to section 12-36-920 has been collected in at least one fiscal year.<sup>16</sup>

## C. Qualifying Infrastructure

Section 12-20-105(C)(1) defines the term “infrastructure” as improvements for water, wastewater, hydrogen fuel, sewer, gas, steam, electric energy, and communications services made to a building or land that are considered necessary, suitable, or useful to an eligible project.

The types of infrastructure improvements that qualify include, but are not limited to:

- Improvements to public or private water and sewer systems.<sup>17</sup>
- Improvements to public or private electric, natural gas, and telecommunications systems including, but not limited to, ones owned or leased by an electric cooperative, electric utility, or electric supplier as defined by Chapter 27, Title 58.<sup>18</sup>
- Fixed transportation facilities including highway, road, rail, water and air.<sup>19</sup>
- Shell buildings, and the purchase of land for a qualifying park, if the project is an eligible project under item (II) of the “Eligible Project” requirements above.<sup>20</sup>

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<sup>14</sup> S.C. Code Ann. § 12-20-105(B)(1).

<sup>15</sup> S.C. Code Ann. § 12-20-105(B)(2).

<sup>16</sup> S.C. Code Ann. § 12-20-105(B)(3).

<sup>17</sup> S.C. Code Ann. § 12-20-105(C)(1).

<sup>18</sup> S.C. Code Ann. § 12-20-105(C)(2).

<sup>19</sup> S.C. Code Ann. § 12-20-105(C)(3).

<sup>20</sup> S.C. Code Ann. § 12-20-105(C)(4).

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*Note:* A county, political subdivision, or agency may sell the shell building or all or a portion of the park at any time after the taxpayer has paid cash to provide the infrastructure and this does not invalidate the Utility License Fee Credit.

- Incubator buildings whose ownership is retained by the county, political subdivision, or agency of the State, if the project is an eligible project under item (II) of the “Eligible Project” requirements above.<sup>21</sup>
- Due diligence expenditures relating to environmental conditions as described in section 12-20-105(C)(5) if the project is an eligible project under item (II) of the “Eligible Project” requirements above and the expenditures are incurred after a county or political subdivision has acquired contractual rights to an industrial park.<sup>22</sup>
- Site preparation costs for a project qualifying as an eligible project under item (II) of the “Eligible Project” requirements above including, but not limited to:
  - (a) clearing, grubbing, grading, and stormwater retention; and
  - (b) refurbishment of buildings that are owned or controlled by a county or municipality used exclusively for economic development purposes.<sup>23</sup>
- Cash payments to a county, political subdivision, or agency of this State for purposes of defraying public debt incurred for allowed infrastructure if the project qualifies under item (II) of the “Eligible Project” requirements above.<sup>24</sup>
- Land acquisition and preparation costs, construction of facilities and venues, improvements and upgrades to existing facilities and venues, and any other capital costs associated with the acquisition, construction, and operation of an eligible project qualifying under item (III) (recreational complex) of the “Eligible Project” requirements above.<sup>25</sup>
- Debt payments on any loans or bonds for eligible infrastructure for an eligible project qualifying under item (III) (recreational complex) of the “Eligible Project” requirements above.<sup>26</sup>

## Necessary, Suitable, or Useful to an Eligible Project

As stated above, “infrastructure” consists of improvements made to a building or land for water, wastewater, hydrogen fuel, sewer, gas, steam, electric energy, and communication services that

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<sup>21</sup> Id.

<sup>22</sup> S.C. Code Ann. § 12-20-105(C)(5).

<sup>23</sup> S.C. Code Ann. § 12-20-105(C)(6).

<sup>24</sup> S.C. Code Ann. § 12-20-105(C)(7).

<sup>25</sup> S.C. Code Ann. § 12-20-105(I).

<sup>26</sup> Id.

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are necessary, suitable, or useful to an eligible project. Additionally, the Utility License Fee Credit statute allows certain other costs, such as shell buildings and due diligence expenditures associated with a qualifying park, to qualify as infrastructure.<sup>27</sup> However, in all instances, the scope and cost of the infrastructure must be reasonable when considering the scope and cost of the eligible project and how the project qualifies for the Utility License Fee Credit. For example, if an eligible project qualifies for the investment tax credit allowed by Chapter 14, Title 12, and the qualifying equipment being placed in service to generate the investment tax credit has a cost of \$5,000, a rail spur which costs \$200,000 would not be considered necessary, suitable, or useful to the eligible project given the scope of the project.

The following chart provides information and examples about qualifying and nonqualifying infrastructure. While the chart does not address every type of infrastructure, it does provide guidance that taxpayers can consider in determining what types of infrastructure may qualify for the credit. However, to qualify, the infrastructure generally must be part of a larger system and be necessary, suitable, and useful for the project as described above.

<b>Infrastructure That May Qualify</b>
1. Water, sewer, electric, gas, or telecommunications lines
2. Land to construct a county-owned industrial park
3. Due diligence expenses for environment studies associated with acquiring land for a county-owned or constructed industrial park after contractual rights for the park have been acquired by a county
4. Costs associated with a shell building to be located inside a county-owned or constructed industrial park
5. Roads and highways
6. Railroad lines and spurs
7. Refurbishment of a county-owned building, which is located inside a county-owned or constructed industrial park, so long as the building is used exclusively for economic development purposes
8. Costs associated with site preparation and stormwater retention including clearing, grubbing, and grading for a county-owned or constructed industrial park
9. Costs associated with the construction of an incubator building to be located inside a county-owned or constructed commercial park so long as the county retains ownership of the building
10. Upgrades to existing facilities for a county or municipality-owned multiuse sports and recreation complex in a county, which collects at least \$5 million in state accommodations tax pursuant to section 12-36-920 in a single fiscal year

<sup>27</sup> S.C. Code Ann. § 12-20-105(C).

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<b>Non-Qualifying Infrastructure</b>
1. Any expenses incurred in the construction and operation of any building or infrastructure owned, leased, managed, or operated by the taxpayer claiming the credit <sup>28</sup>
2. Repairs to a privately owned building
3. Costs associated with certifying a site under the South Carolina Palmetto Sites program at the South Carolina Department of Commerce
4. Signage, landscaping, curbs, or parking lots of facilities
5. Facilities at a local technical college that might indirectly support a particular industry in the state such as training program geared to the eligible project's business, including buildings and equipment
6. Costs associated with site preparation including clearing, grubbing, grading, and stormwater retention for a project which does not qualify under items (II) or (III) of the "Eligible Project" requirements above
7. Impact fees for water and sewer
8. Payment for an option to acquire land even if the land may be used to develop a qualifying park

## D. General Questions about the Utility License Fee Credit

1. Q. If the entire Utility License Fee Credit cannot be used in the current tax year, is there any carryforward of the credit?
  - A. Yes. If the applicable credit originally earned during the taxable year exceeds the taxpayer's Utility License Fee liability, the amount of the excess may be carried forward to the next taxable year.<sup>29</sup> The carryforward period is only one year for the credit and there is no additional carryforward.

Example: Assume that taxpayer earned a \$600,000 credit in 2024 by providing cash to eligible projects for qualifying infrastructure. However, taxpayer only has \$300,000 of Utility License Fee liability for 2024. Taxpayer may carry over \$300,000 of unused credit to offset any Utility License Fee for 2025. In 2025, taxpayer earns an additional \$400,000 in credit, but only has \$200,000 of Utility License Fee liability. Taxpayer may use \$200,000 of the \$300,000 carryforward from 2024 to offset its Utility License Fee liability on its 2025 return, but will forfeit the remaining \$100,000 of carryforward. Taxpayer may carry forward the \$400,000 of unused credit attributable to 2025 into 2026.

<sup>28</sup> S.C. Code Ann. § 12-20-105(D).

<sup>29</sup> S.C. Code Ann. § 12-20-105(F).

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2. Q. Is the Utility License Fee Credit refundable?
  - A. No. The credit may reduce a taxpayer's tax liability to zero, but it is not refundable.<sup>30</sup>
3. Q. May the Utility License Fee Credit be sold or transferred to another party if a taxpayer cannot fully use the credit?
  - A. No, the credit may not be sold or transferred to a third party even if the taxpayer qualifying for the credit does not have sufficient Utility License Fee liability to use the credit.
4. Q. How does a taxpayer claim the Utility License Fee Credit?
  - A. The taxpayer claims the credit on the proper line of the taxpayer's applicable tax return, generally either the SC1120U ("Public Utility Tax Return") or CL-4 ("Annual Report of Electric Cooperative Property and Gross Receipts"). The taxpayer should follow the instructions on the applicable return in determining what information to submit when claiming the credit. If a qualifying taxpayer does not file either the SC1120U or CL-4, the taxpayer should file the appropriate return (either the SC1120 or the SC1120S) and attach the Utility License Fee Schedule from the SC1120U.
5. Q. Can a taxpayer be pre-approved for the Utility License Fee Credit?
  - A. No, a taxpayer cannot be pre-approved for the credit. However, a taxpayer who plans to claim the credit can request an informal, non-binding comfort letter concerning the project and the infrastructure. The letter is based solely on the facts presented by the taxpayer and is non-binding on the Department. The cost for the letter is \$35. A taxpayer can request this letter by submitting a written request along with the \$35 to the Department. The request should contain all applicable information concerning the eligible project and qualifying infrastructure and should include the required payment. The request can be sent to:

South Carolina Department of Revenue  
Attn: Tax Credits  
P.O. Box 125  
Columbia, SC 29214-0825

Alternatively, the request may also be emailed to [taxcredits@dor.sc.gov](mailto:taxcredits@dor.sc.gov).

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<sup>30</sup> Id.



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6. Q. Can the taxpayer make a promise to contribute the cash in a subsequent tax year and still claim the Utility License Fee Credit?
  - A. No. The taxpayer must provide cash, a money transfer, or a current check to the eligible project for the tax year in which it plans on claiming the credit.
7. Q. For a project qualifying under item (II) above, must the project be located in a multicounty industrial park as provided for in section 4-1-170?
  - A. No. The project must be located in an office, business, commercial, or industrial park, or a combination of these and must meet the other requirements listed in item (II) above, but there is no requirement that the project be located in a multicounty industrial park, though there is no prohibition that would restrict putting a project in such a park.
8. Q. May a taxpayer contribute cash to several eligible projects in a single taxable year?
  - A. Yes. A taxpayer may contribute cash to any number of eligible projects, subject to the other requirements of the statute. Similarly, a single eligible project may receive cash from more than one taxpayer who is subject to the Utility License Fee. However, the total amount of credit a taxpayer may claim for all eligible projects in a single taxable year may not exceed \$600,000, unless they qualify for the additional credit associated with a single project in a Tier II, Tier III, or Tier IV County. If a taxpayer contributes to more than one project, the taxpayer will be ineligible for the additional \$50,000, \$100,000 or \$150,000 available for investing in a single project located in a Tier II, Tier III, or Tier IV County.
9. Q. Can a taxpayer claim the Utility License Fee Credit for amounts paid in the current tax year for a potential eligible project, even though construction of the qualifying infrastructure will not be completed until a future year?
  - A. Yes. However, the cash contributions must be given for the eligible project in the tax year for which the taxpayer plans to claim the credit. A taxpayer may enter into a multi-year commitment to provide cash for an eligible project, and if the qualifying infrastructure is not constructed by the end of the tax year, the taxpayer can still claim the credit for cash amounts provided in the current tax year but not for amounts promised in future years. However, the taxpayer must execute a waiver of the statute of limitations as provided in Question 11 below.
10. Q. If a project is abandoned, or does not meet the statutory requirements by the end of the tax year for which the credit is claimed, may the taxpayer designate another project as eligible for the credit and retain the credit?

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- A. Yes. When a taxpayer has entered into an agreement to pay cash for infrastructure for an eligible project, but the project is abandoned or does not meet the statutory requirements by the end of the tax year, the taxpayer who claimed the credit may retain the credit if the taxpayer identifies another eligible project that would qualify for the credit and the cash is used for qualifying infrastructure for that project. If the designation of the substitute project is made in a future year, the redirected cash contribution will not count towards the \$600,000 total credit available for the tax year in which the substitute project is identified.
11. Q. If the qualifying infrastructure or the eligible project will not meet the requirements of the statute by the end of the tax year as discussed in Questions 9 and 10 above, what must a taxpayer do to assure that it may claim the credit for the current tax year?
- A. 1. If the qualifying infrastructure or eligible project will not meet the statutory requirements by the end of the tax year in which the cash is contributed, the taxpayer making the contribution must execute a waiver of the statute of limitations pursuant to section 12-54-85. The waiver allows the Department to assess the fee in later years since it is possible that the eligible project will never meet the qualifications of the statute or the infrastructure will never be constructed.
2. The waiver must cover a period beginning with the date the return on which the credit is first claimed is filed and ending three years after the taxpayer notifies the Department that the eligible project has: a) met the statutory requirements, (b) the qualifying infrastructure has been completed, or c) that the project has been abandoned or will otherwise not meet the statutory requirements, whichever is applicable.
3. The taxpayer must either include the waiver with its return on which the credit is claimed if a paper return is filed or send the waiver to the address provided below in 4. below if an electronic return is filed.
4. The taxpayer must notify the Department by sending a letter providing the name, address and tax identification number of the taxpayer claiming the credit, information about the qualifying eligible project and the qualifying infrastructure, and the date that the statutory requirements have been met, the qualifying infrastructure was completed, or the project has been abandoned or will otherwise not meet the statutory requirements. The notice can be sent to:

South Carolina Department of Revenue  
Attn: Tax Credits  
P.O. Box 125  
Columbia, SC 29214-0825

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Alternatively, the notice may be emailed to [taxcredits@dor.sc.gov](mailto:taxcredits@dor.sc.gov).

5. If the taxpayer redirects the contribution in the current year or a future year by designating a different eligible project pursuant to section 12-20-105(A), the taxpayer must notify the Department about the substitute project or infrastructure. The Department will be allowed additional time as provided in the waiver to assess any taxes due.

Example: In May 2024, taxpayer contributes \$200,000 to Y to help construct an access road to Y's Project. Y believes its project will qualify for the jobs tax credit under section 12-6-3360 but has not hired any employees to work at the project and construction of the infrastructure has not begun. When taxpayer files its return in 2025, taxpayer may claim the credit for the \$200,000 on its 2024 return but must execute a waiver as described above.

In June 2025, Y's project is abandoned, but X has a project that it believes will qualify for a fee in lieu of property taxes. In July 2025, taxpayer designates X's project as a substitute for Y's project and contributes \$600,000 towards the project. The \$200,000 contributed to Y's project in 2024 is deemed to be made for X's project, so taxpayer does not need to file an amended return eliminating the credit claimed in 2024. However, since X's project has not met the qualifications of the statute yet and the infrastructure has not been constructed, taxpayer must provide the Department the information listed in 4. above for the substitute project and the waiver will now apply to the substitute project.

The \$200,000 contributed in 2024, will not reduce the total \$600,000 of credit taxpayer may claim for 2025. In 2026, X completes its project and the fee in lieu becomes active. The infrastructure has also been completed. Taxpayer must notify the Department in 2026 that the project has qualified as an eligible project and the qualifying infrastructure has been installed.<sup>31</sup>

12. Q. Can an eligible project be located in any county in South Carolina?
  - A. Yes. An eligible project may be located in any county or group of counties in South Carolina. It does not have to be located in a county in which the taxpayer is located.
13. Q. Can a county-owned jail or administrative building that houses administrative functions of the county qualify as an eligible project?
  - A. No. A county jail or an administrative building is not a project that is eligible for the listed tax incentives of section 12-20-105(B)(1), nor is it used exclusively for

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<sup>31</sup> S.C. Code Ann. §§ 12-20-105(A) and 12-54-85(B)(4).

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economic development. Therefore, these projects cannot meet the requirements of an eligible project.

14. Q. Town C would like to make some upgrades to its water system by replacing old pipes and to expand water capacity for the town. The upgrades will benefit all Town C residents. Do the upgrades to the water system qualify as an eligible project?

A. No. The water system upgrades improvement project is not a project that is eligible for the listed tax incentives of section 12-20-105(B)(1), nor is the project used exclusively for economic development. Therefore, it cannot meet the requirements of an eligible project.

15. Q. May a taxpayer who qualifies as an electric utility contribute cash to help lay electric lines at an eligible project and claim the credit if those electric lines are to be used by the taxpayer to provide electricity to the eligible project?

A. No. The statute provides that a taxpayer may not provide cash in support of any building or infrastructure it owns, leases, manages, or operates, even if the infrastructure otherwise qualifies.<sup>32</sup>

16. Q. If a taxpayer provides cash for a county to construct a shell building for an eligible project qualifying under section 12-20-105(B)(2) (eligible projects under Item (II) of the “Eligible Project” requirements), may the county sell the shell building after the shell building’s construction without invalidating the Utility License Fee Credit for the taxpayer?

A. Yes. The county may sell the shell building at any time after the taxpayer has paid the cash for the qualifying project without disqualifying the taxpayer from claiming the credit. The county may also sell land that has qualifying infrastructure on it and is located in a qualifying park after providing the cash for the qualifying project.<sup>33</sup>

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<sup>32</sup> S.C. Code Ann. § 12-20-105(D).

<sup>33</sup> S.C. Code Ann. §§ 12-20-105(B)(2) and (C)(4).

## E. Exhibit A

### CHAPTER 20 Corporation License Fees

#### **SECTION 12-20-10.** Definitions.

For the purposes of this chapter:

- (1) "Department" means the South Carolina Department of Revenue.
- (2) "Taxable year" means the calendar year, or the fiscal year used in computing taxable income under Chapter 6 of this title.
- (3) "Domestic corporation" means a corporation incorporated under the laws of this State.
- (4) "Foreign corporation" means a corporation not incorporated under the laws of this State.

HISTORY: 1995 Act No. 76, Section 3.

#### **SECTION 12-20-105.** Tax credits.

(A) Any company subject to a license tax under Section 12-20-100 may claim a credit against its license tax liability for amounts paid in cash to provide infrastructure for an eligible project.

(B)(1) To be considered an eligible project for purposes of this section, the project must qualify for income tax credits under Chapter 6, Title 12, withholding tax credit under Chapter 10, Title 12, income tax credits under Chapter 14, Title 12, or fees in lieu of property taxes under either Chapter 12, Title 4, Chapter 29, Title 4, or Chapter 44, Title 12.

(2) If a project is located in an office, business, commercial, or industrial park, or combination of these, and is used exclusively for economic development and is owned or constructed by a county, political subdivision, or agency of this State when the qualifying improvements are paid for, the project does not have to meet the qualifications of item (1) to be considered an eligible project. As provided in subsection (C)(4), the county or political subdivision may sell all or a portion of the business or industrial park.

(3) In a county in which at least five million dollars in state accommodations tax imposed pursuant to Section 12-36-920 has been collected in at least one fiscal year, a county or municipality-owned multiuse sports and recreational complex is considered an 'eligible project' promoting economic development for all purposes of the credit allowed pursuant to this section.

(C) For the purpose of this section, "infrastructure" means improvements for water, wastewater, hydrogen fuel, sewer, gas, steam, electric energy, and communication services made to a building or land that are considered necessary, suitable, or useful to an eligible project. These improvements include, but are not limited to:

- (1) improvements to both public or private water and sewer systems.
- (2) improvements to both public or private electric, natural gas, and telecommunications systems including, but not limited to, ones owned or leased by an electric cooperative, electric "utility", or electric supplier, as defined in Chapter 27, Title 58.
- (3) fixed transportation facilities including highway, road, rail, water, and air.
- (4) for a qualifying project under subsection (B)(2), infrastructure improvements include shell buildings, incubator buildings whose ownership is retained by the county, political subdivision, or agency of the State and the purchase of land for an office, business, commercial, or industrial park,

or combination of these, used exclusively for economic development which is owned or constructed by a county, political subdivision, or agency of this State. The county, political subdivision, or agency may sell the shell building or all or a portion of the park at any time after the company has paid in cash to provide the infrastructure for an eligible project.

(5) for a qualifying project pursuant to subsection (B)(2), infrastructure improvements also include due diligence expenditures relating to environmental conditions made by a county or political subdivision after it has acquired contractual rights to an industrial park. Due diligence expenditures include such items as Phase I and II studies and environmental or archeological studies required by state or federal statutes or guidelines or similar lender requirements. Contractual rights include options to purchase real property or other similar contractual rights acquired before the county or political subdivision files a deed to the property with the Register of Mesne Conveyances; and

(6) for a qualifying project pursuant to subsection (B)(2), site preparation costs include, but are not limited to:

(a) clearing, grubbing, grading, and stormwater retention; and

(b) refurbishment of buildings that are owned or controlled by a county or municipality and are used exclusively for economic development purposes.

(D) A company is not allowed the credit provided by this section for actual expenses it incurs in the construction and operation of any building or infrastructure it owns, leases, manages, or operates.

(E) The maximum aggregate credit that may be claimed in any tax year by a single company is four hundred thousand dollars.

(F) The credits allowed by this section may not reduce the license tax liability of the company below zero. If the applicable credit originally earned during a taxable year exceeds the liability and is otherwise allowable under subsection (D), the amount of the excess may be carried forward to the next taxable year.

(G) For South Carolina income tax and license purposes, a company that claims the credit allowed by this section is ineligible to claim the credit allowed by Section 12-6-3420.

(H) By March first of each year, the Department of Revenue shall issue a report to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Secretary of the Department of Commerce outlining the history of the credit allowed pursuant to this section. The report shall include the amount of credit allowed pursuant to this section and the types of infrastructure provided to eligible projects.

(I) For the purposes of this section, for a qualifying project pursuant to subsection (B)(3), infrastructure includes all applicable provisions of subsection (C) applying to the development and construction of the sports and recreational complex and further includes costs of land acquisition and preparation, construction of facilities and venues in the complex, improvements and upgrades to existing facilities and venues, and any other capital costs incurred in the acquisition, construction, and operation of the complex.

HISTORY: 1996 Act No. 231, Section 4A; 1997 Act No. 151, Section 9; 1999 Act No. 93, Section 15; 2003 Act No. 69, Section 3.QQ, eff June 18, 2003; 2005 Act No. 145, Section 22.A, eff June 7, 2005; 2007 Act No. 110, Section 59.A, eff June 21, 2007, applicable for tax years beginning after 2003; 2007 Act No. 116, Section 6, eff June 28, 2007, applicable for tax years beginning after 2003; 2008 Act No. 313, Section 2.I.2, eff June 12, 2008; 2010 Act No. 290, Section 18, eff

January 1, 2011; 2012 Act No. 187, Section 2, eff June 7, 2012; 2014 Act No. 279 (H.3644), Sections 3.A, 3.B, eff June 10, 2014.

Editor's Note

2014 Act No. 279, Section 3.C, provides as follows:

“C. This section takes effect upon approval by the Governor and applies for contributions made for a multiuse sports and recreational complex placed in service after 2011.”

Effect of Amendment

2014 Act No. 279, Section 3.A, 3.B, inserted subsections (B)(3) and (I), relating to additional eligible project.