STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
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P.O. Box 125, Columbia, South Carolina 29214-0575

SC REVENUE RULING #25-1 (Revised)

SUBJECT:	South Carolina Textiles Communities Revitalization Act (Income and Property Taxes)
EFFECTIVE DATE:	Applies to all projects for which a Notice of Intent to Rehabilitate ("Notice of Intent") is filed after February 10, 2025
SUPERSEDES:	SC Revenue Ruling #15-8 and all previous documents and any oral directives in conflict with this ruling
REFERENCES:	Chapter 65 of Title 12
AUTHORITY:	S.C. Code § 12-4-320 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 a general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

PURPOSE OF UPDATE

SC Revenue Ruling #15-8 discussed the South Carolina Textiles Communities Revitalization Act ("Act") as it existed in 2015. The General Assembly amended the Act in 2016, 2018, 2019, and 2021.[1] The purpose of this updated advisory opinion is to address changes made by those amendments and to expand the scope of Revenue Ruling #15-8 to address additional questions about the credit.

[1] 2016 Act No. 179, § 1, eff. May 23, 2016; 2016 Act No. 272, § 2.A, eff. June 7, 2016; 2018 Act No. 265, § 3.A, eff. October 3, 2018; 2019 Act No. 50, § 1, eff. May 16, 2019; and 2021 Act No. 21, § 2.A, eff. April 26, 2021.

OVERVIEW OF THE ACT

To address the challenges abandoned textile mill sites create for South Carolina communities, which include safety and crime issues, unmarketability of property, and increased costs for local governments, the General Assembly created an incentive for the rehabilitation of these sites by passing the Act. S.C. Code Ann. § 12-65-10. The Act establishes either an income tax credit or a property tax credit for taxpayers who incur qualifying rehabilitation expenses while rehabilitating, renovating, or redeveloping abandoned textile mill sites.

The Act defines a "textile mill" as a facility or facilities that were initially used for textile manufacturing, dyeing, or finishing operations and for ancillary uses to those operations. S.C. Code Ann. § 12-65-20(3).

Ancillary uses are:

> uses related to textile manufacturing, dyeing, or finishing operations on a textile mill site consisting of sales, distribution, storage, water runoff, wastewater treatment and detention, pollution control, landfill, personnel offices, security offices, employee parking, dining and recreation areas, and internal roadways or driveways directly associated with such uses.

S.C. Code Ann. § 12-65-20(2).

A "textile mill site" is defined in Section 12-65-20(4)(a) ("4(a) Sites") as:

> the textile mill together with the land and other improvements on it which were used directly for textile manufacturing operations or ancillary uses. However, the area of the site is limited to the land located within the boundaries where the textile manufacturing, dyeing, or finishing facility structure is located and does not include land located outside the boundaries of the structure or devoted to ancillary uses.

Pursuant to this definition, a 4(a) Site must currently have or previously have had a textile mill, which is defined to include ancillary use structures, on it. If a textile mill is no longer standing on the site, the taxpayer must prove the boundaries of each of the absent manufacturing, dyeing, or finishing facilities or the boundaries of any ancillary use facilities as the Act limits a 4(a) Site to the footprints of those facilities. A textile mill site does not include land outside the boundaries of the manufacturing, dyeing, or finishing facility structure or land outside the boundaries of any ancillary use facilities. S.C. Code Ann. §§ 12-65-20(4)(a) and 12-65-35.

However, for certain sites designated by Section 12-65-20(4)(b) of the Act ("4(b) Sites"), Taxpayers can earn the credit for rehabilitating buildings which are not related to textile

manufacturing or ancillary uses. 4(b) Sites include: (i) any site acquired by a taxpayer before January 1, 2008; (ii) a site located on the Catawba River near Interstate 77; or (iii) a site which, on the date the notice of intent to rehabilitate is filed, is located in a distressed area of a county in this State, as designated by the applicable council of government. S.C. Code Ann. § 12-65-20(4)(b). For 4(b) Sites, a textile mill site includes "the textile mill structure, together with all land and improvements which were used directly for textile manufacturing operations or ancillary uses, or were located on the same parcel or a contiguous parcel within one thousand feet of any textile mill structure or ancillary uses." Consequently, expenses of rehabilitating, renovating, or redeveloping buildings on a 4(b) Site or on a parcel contiguous to a 4(b) Site qualify for the credit, even if the buildings are not related to textile manufacturing or ancillary uses, provided the unrelated buildings are within 1,000 feet of any textile mill structure or ancillary use structure. The General Assembly placed a square footage limitation on expenses included in the credit calculation for these buildings, which is discussed below.

Additionally, the legislature did not repeat the limitation of Section 12-65-20(4)(a) in Section 12-65-4(b). Section 12-65-20(4)(a) restricts a 4(a) Site to land located within the boundaries of the textile manufacturing, dyeing, or finishing facility and structures devoted to ancillary uses. Accordingly, the credit calculation for 4(b) Sites can include expenses incurred for rehabilitating or redeveloping land provided the land is within 1,000 feet of a structure initially used for textile manufacturing, dying, or finishing or an ancillary use.

A contiguous parcel is any separate tax parcel sharing a common boundary with an adjacent parcel that contains or contained a textile mill or which is only separated from the adjacent parcel by private or public roads and railroad rights of way. S.C. Code Ann. § 12-65-20(4)(b).

A textile mill site is considered abandoned when, for a period of at least one year immediately preceding the date a taxpayer files a Notice of Intent, at least 80% of the textile mill has been either (i) closed continuously to business or (ii) otherwise nonoperational as a textile mill. S.C. Code Ann. § 12-65-20(1).

A textile mill site that qualifies as abandoned may be subdivided into separate parcels, and the parcels may be owned by the same taxpayer or different taxpayers. Each parcel is deemed to be a separate textile mill site for purposes of determining whether each subdivided parcel is considered abandoned. S.C. Code Ann. § 12-65-20(1). Accordingly, subparcels that never had a structure related to textiles can qualify as textile mill sites provided the original parcel qualified as a textile mill site.

Generally, the amount of the credit is based on rehabilitation expenses incurred by the taxpayer. Rehabilitation expenses include:

> expenses or capital expenditures incurred in the rehabilitation, renovation, or redevelopment of the textile mill site, including without limitations, the

> demolition of existing buildings, environmental remediation, site improvements and the construction of new buildings and other improvements on the textile mill site, but excluding the cost of acquiring the textile mill site or the cost of personal property located at the textile mill site.

S.C. Code Ann. § 12-65-20(8)(a). When calculating the credit for new or rehabilitated buildings on parcels that are contiguous to 4(b) Sites, rehabilitation expenses do not include expenses that increase the amount of square footage of the buildings that existed on that contiguous parcel immediately preceding the time at which the textile mill became abandoned by more than 200%. S.C. Code Ann. § 12-65-20(8)(b).

For expenses incurred in the rehabilitation, renovation, or redevelopment of a textile mill site to qualify for the credit, the textile mill and buildings on the textile mill site must be either renovated or demolished. S.C. Code Ann. § 12-65-20(8)(a). Taxpayers may not claim the credit if buildings on the textile mill site, whether related to textiles or not, are left in a deteriorated state.

The Act allows a taxpayer to apply to the municipality or county where the textile mill is located for a certification of the textile mill site. S.C. Code Ann. § 12-65-60. If a taxpayer receives this certification, the taxpayer has met its burden of proof concerning three requirements of the Act: (i) the textile mill site was a textile mill as defined in Section 12-6-20(3), (ii) the textile mill site has been abandoned as defined in Section 12-65-20(1), and (iii) the geographic area of the textile mill site meets the requirements of Section 12-65-20(4). All other requirements of the Act and the amount of the credit are administered and enforced by the Department.

The Act specifies rules for taxpayers whose textile mill site qualifies for more than one tax credit. A taxpayer whose site qualifies for the textile mill credit, the retail facilities credit (now repealed), and the abandoned buildings credit and who chooses to claim one of those other credits may not claim the textile credit. S.C. Code Ann. § 12-67-140(B)(4). If a taxpayer qualifies for both the textile income tax credit and the certified historic structure rehabilitation credit under Section 12-6-3535, the taxpayer may claim both credits. S.C. Code Ann. § 12-65-30(C)(4).

The provisions of Title 6, Chapter 31 ("South Carolina Local Government Development Agreement Act") apply to this credit. However, Section 6-31-40 ("Developed Property must Contain Certain Number of Acres of Highland") does not apply. S.C. Code Ann. § 12-65-40.

The credit is not available to every taxpayer that owns an abandoned textile mill. A taxpayer seeking to rehabilitate an otherwise eligible textile mill site that owned the site when it was operational and immediately prior to its abandonment may not claim the credit. If a textile mill facility has previously received textile mill credits, then its owner is not

eligible for the credit, even if it is owned by a different taxpayer. S.C. Code Ann. § 12-65-30(D). Rehabilitation expenses may only be used once in the calculation of the credit.

Pursuant to Section 12-65-30(A), a taxpayer that rehabilitates a textile mill site is eligible for a credit against either: (i) real property taxes, or (ii) income taxes imposed by Chapter 6 (income tax), Chapter 11 (bank tax), or Chapter 20 (corporate license fees), all of Title 12, Chapter 7 of Title 38 (insurance premium tax), or any combination of these income taxes. However, a taxpayer may not claim both the credit against property taxes and against income taxes; a taxpayer must select one or the other kind of credit.[2]

A taxpayer's selection of the credit type is made by filing a Notice of Intent with the county or municipality where the textile mill site is located for the property tax credit or the Department of Revenue for the credit against other allowed taxes. A Notice of Intent is a letter submitted by the taxpayer indicating the taxpayer's intent to rehabilitate the textile mill site, the location of the textile mill site, the amount of acreage involved in the textile mill site, and the estimated expenses to be incurred in connection with rehabilitation of the textile mill site. The notice also must set forth information as to which buildings the taxpayer intends to renovate, which buildings the taxpayer intends to demolish, and whether new construction is to be involved. S.C. Code Ann. § 12-65-20(9).

Property Tax Credit:

To be eligible for the property tax credit, a taxpayer must file a Notice of Intent with the county or municipality in which the textile mill site is located before incurring its first rehabilitation expenses.[3] Expenses incurred prior to filing a Notice of Intent are not qualifying rehabilitation expenses and are not included in the calculation of the credit. S.C. Code § 12-65-30(B)(1).

After a taxpayer has provided a Notice of Intent to the local governing body, that body must first pass a resolution to determine the eligibility of the textile mill site and the proposed rehabilitation expenses by a majority of the members of the entire governing body, whether present at the meeting or not. S.C. Code Ann. § 12-65-30(B)(2).

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[2] For simplicity, this credit is referred to as an "income tax credit," although the bank tax, corporate license fee, and insurance premium tax are not income taxes.

[3] In 2024, the General Assembly passed Proviso 117.169 to the 2024-2025 Appropriations Act which creates a limited exception for this timing rule. For any project involving an abandoned textile mill of between either: (1) 50,000 and 55,000 square feet, the rehabilitation of which began on or prior to June 30, 2022; or (2) 130,000 and 135,000 square feet and estimated rehabilitation expenses of between either: (a) $3,000,000 and $3,500,000; or (b) $5,500,000 and $6,500,000, a Notice of Intent filed on or before June 30, 2025, shall be effective as of the effective date designated by the taxpayer in the Notice of Intent. The effective date may be earlier than the date of the Notice of Intent, and any rehabilitation expenses incurred on or after the effective date designated by the taxpayer shall be eligible for credits under the Act provided all other applicable statutory requirements are satisfied. This proviso will no longer be valid after June 30, 2025, unless the South Carolina legislature reenacts the proviso or a similar proviso.

After determining the eligibility of the textile mill site and the proposed rehabilitation expenses, the local governing body must hold a public hearing and approve the textile mill site for the credit by ordinance. S.C. Code Ann. § 12-65-30(B)(2). At least forty-five days before the public hearing, the governing body must give notice to all affected local taxing entities of its intention to grant a credit against real property taxes for the textile mill site and the amount of estimated credit. If a local taxing entity does not object to the tax credit on or before the date of the public hearing, the local taxing entity is considered to have consented to the tax credit. S.C. Code Ann. § 12-65-30(B)(4).

Prior to approval by ordinance, the governing body must make a finding that the credit does not violate a covenant, representation, or warranty in any of its tax increment financing transactions or its outstanding general obligation bonds. S.C. Code Ann. § 12-65-30(B)(2).

The amount of the property tax credit is equal to 25% of the actual rehabilitation expenses incurred in rehabilitating the textile mill site times the local taxing entity ratio[4] of each taxing entity that has consented to the credit provided the actual rehabilitation expenses are between 80% and 125% of the estimated rehabilitation expenses set forth in the Notice of Intent. S.C. Code Ann. § 12-65-30(B)(3)(a). If the actual rehabilitation expenses exceed 125% of the estimated expenses set forth in the Notice of Intent, the amount of the credit is based on 125% of the estimated expenses instead of the actual expenses incurred. If the actual rehabilitation expenses are below 80% of the estimated rehabilitation expenses, the credit is not allowed.

The credit against real property taxes may be claimed against up to 75% of the real property taxes due beginning for the property tax year in which the applicable phase or portion of the textile mill site is first placed in service. Any remaining credit may be applied in subsequent years for up to seven additional years (a total of eight years) or until the credit is exhausted, subject to the 75% limitation. S.C. Code Ann. §§ 12-65-30(B)(3)(a) and (B)(5).

Income Tax Credit:

To claim the income tax credit, the taxpayer must file a Notice of Intent with the Department prior to receiving the building permits for the textile mill site or phase thereof.[5] Failure to provide the Notice of Intent prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof results in qualification of only those rehabilitation expenses incurred after the notice is provided. S.C. Code Ann. § 12-65-30(C)(2).

[4] The local taxing entity ratio is set as of the time the Notice of Intent is filed and remains set for the entire period that the credit may be claimed by the taxpayer. S.C. Code Ann. § 12-65-30(B)(3)(b).
[5] *See* Footnote 3.

The amount of the income tax credit is equal to 25% of the actual rehabilitation expenses made at the textile mill site. S.C. Code Ann. § 12-65-30(C)(1). If the actual rehabilitation expenses exceed 125% of the estimated expenses set forth in the Notice of Intent, the taxpayer's credit is limited to 25% of 125% of the estimated expenses instead of the actual expenses incurred. Unlike the property tax credit, a taxpayer is entitled to the credit even if the actual expenses are less than 80% of the estimated expenses set forth in the Notice of Intent. S.C. Code Ann. § 12-65-30(C)(2).

The entire credit is earned in the taxable year in which the applicable phase or portion of the textile mill site is placed in service but must be taken in equal installments over five years beginning with the tax year the credit is earned. Unused credit may be carried forward for the succeeding five years. S.C. Code Ann. § 12-65-30(C)(3).

There is no dollar cap on the income tax credit, and the credit may offset 100% of the taxpayer's income tax liability for the tax year in which it is claimed.[6]

The income tax credit is transferable. If the taxpayer leases the textile mill site, or part of the textile mill site, the taxpayer may transfer any remaining credit associated with the leased part of the site to the lessee. If a taxpayer sells the textile mill site, or any phase or portion of the textile mill site, the taxpayer may transfer all, or part of the remaining credit, associated with that phase or portion of the site to the purchaser. If a taxpayer transfers the credit, the taxpayer must notify the Department of the transfer. S.C. Code Ann. § 12-65-30(C)(6)(b).

If the income tax credit is earned by an entity taxed as a partnership, the credit and any unused carryforward may be allocated among any of the partners or members on an annual basis. The entire credit may be allocated to any partner or member who was a partner or member at any time in the year in which the credit or unused carryforward was allocated. S.C. Code Ann. § 12-65-30(C)(7). The allocation must be respected despite any provision of the Internal Revenue Code, or regulation promulgated pursuant to it, that may be interpreted as contrary to the allocation. S.C. Code Ann. § 12-2-100(B). Subsection (B) applies only to qualified projects placed in service between January 1, 2020, and December 31, 2030. 2022 S.C. Act No. 63. However, Subsection 12-65-30(C)(7) will protect an allocation after 2030.

QUESTIONS AND ANSWERS

1. Q. What types of products must a mill have manufactured, dyed, or finished to be considered a textile mill under the Act?

[6] Prior to tax year 2016, the income tax credit was limited to 50% of a taxpayer's liability.

A. The term "textiles" includes both textile products and apparel. "Textiles" is a general term and includes basic yarn and fabrics, including those made with natural and artificial fibers, as well as end use products like apparel and home furnishings.

2. Q. If the only textile mill structure on a parcel has been demolished, can the parcel qualify as a textile mill site?

   A. Yes, the parcel can qualify as a textile mill site even though the textile mill has been demolished. However, the taxpayer must be able to prove the location and boundaries of the absent facilities or structures as the Act requires the existence of at least one textile mill on the site for it to qualify as a textile mill site. The term textile mill includes a facility or facilities that were initially used for textile manufacturing, dyeing, or finishing operations and facilities built for ancillary uses to those operations.

3. Q. Does a textile mill site include land?

   A. Yes. The Act defines textile mill site as the textile mill together with the land and other improvements which were used directly for textile manufacturing operations or ancillary uses. However, Section 12-65-20(4)(a) limits a textile mill site to the land located within the boundaries of the structures operated for textile manufacturing, dyeing, or finishing or ancillary uses and does not include land located outside the boundaries of the textile manufacturing, dyeing, or finishing facilities or outside the boundaries of structures used for ancillary uses. Therefore, even though the definition of textile mill site includes land, expenses of rehabilitating, renovating, and redeveloping land are not included in the calculation of the credit for a 4(a) Site. Section 12-65-20(4)(b) does not contain this limitation. Accordingly, the credit is available for rehabilitating, renovating, and redeveloping land on a 4(b) Site and land on a contiguous parcel provided the land is within 1,000 feet of any textile mill structure or ancillary use structure.

4. Q. Can a textile mill qualify for the credit if it is moved from its original location?

   A. No. The purpose of the Act is to create an incentive for the rehabilitation, renovation, and redevelopment of abandoned textile mill sites, not other areas. The purpose of the Act is to create an incentive for taxpayers to rehabilitate, renovate, and redevelop textile mill sites. A facility that has been moved to a new location does not qualify as a textile mill site. However, the site may qualify for the credit if the building is moved from it as an alternative to demolishing the textile mill.

5. Q. For purposes of the abandonment requirement, what does "closed continuously to business or otherwise nonoperational as a textile mill" mean?

A. A textile mill is "closed to business" when the building is not used to generate cash flow, regardless of whether the cash flow is related to textile manufacturing. "Nonoperational as a textile mill" means the mill is no longer used for textile manufacturing, dyeing, or finishing operations. If 80% of a textile mill has met either of these alternatives for at least one year, it is considered abandoned for purposes of the Act.

If a structure was initially used for textile manufacturing but has not produced textiles for one year, it meets the Act's definition of abandoned textile mill even if it had an income producing purpose immediately prior to rehabilitation. For example, a facility that was originally used for textile finishing was subsequently modified and wholly used as a shopping mall for five years immediately prior to the filing of the Notice of Intent. It is still considered abandoned under the Act because at least 80% of the facility was nonoperational as a textile mill for more than one year despite its income producing purpose prior to rehabilitation. However, if the taxpayer who remodeled it into a shopping mall claimed the credit, the new rehabilitation is not eligible for the credit. S.C. Code Ann. § 12-65-30(D).

6. Q. Can a textile mill site be subdivided into separate parcels and then sold to different taxpayers?

   A. Yes, a textile mill site that qualifies as abandoned may be subdivided into separate parcels, and those subparcels may be sold to and owned by different taxpayers.

7. Q. If a textile mill site is subdivided into separate parcels, must a Notice of Intent be filed for each of the subparcels that is being rehabilitated, renovated or redeveloped?

   A. Yes. If a taxpayer chooses to subdivide a textile mill site into separate parcels, then each parcel is deemed an individual textile mill site, and a separate Notice of Intent must be filed for each subparcel.

8. Q. If a 4(b) Site is subdivided, is each subparcel a 4(b) Site?

   A. Yes. Because the Act deems each subparcel an independent textile mill site, each subparcel retains the designation of the original textile mill site. In other words, if 4(b) Site is subdivided, the subparcels resulting from the subdivision are also 4(b) Sites. Accordingly, if a parcel is contiguous to the original 4(b) Site, and the original 4(b) Site is subdivided so that one of the subparcels no longer has a textile mill or ancillary use building on it, the costs of rehabilitating, renovating, or redeveloping an unrelated building on a contiguous subparcel may be included in the calculation of the credit provided the unrelated building on the contiguous parcel is within 1,000 feet of a structure used for textile manufacturing, dyeing, or finishing, or an ancillary use structure. The limitation based on the square footage of the buildings that existed

on that contiguous parcel immediately preceding the time at the textile mill became abandoned will apply.

9. Q. Can a taxpayer claim the credit if it rehabilitates land and improvements on a contiguous parcel but does not rehabilitate the textile mill that is located within 1,000 feet of the land and improvements?

   A. The answer to this question depends on whether the original parcel containing the textile mill has been divided into subparcels and whether the textile mill and all buildings on the original textile mill site are eventually rehabilitated or demolished. Consider a 4(b) Site that is divided into subparcels so that the textile mill is on one subparcel ("Mill Subparcel"), no textile mill is located on a second subparcel ("No Mill Subparcel"), and the third subparcel is a contiguous parcel with buildings and land within 1,000 feet of the textile mill ("Contiguous Subparcel"). All three subparcels are owned by separate taxpayers. All three subparcels were originally part of a 4(b) Site, so each subparcel is deemed a 4(b) Site. Therefore, the calculation of the credit can include the expenses of rehabilitating land and improvements on the contiguous parcel provided the land and improvements are within 1,000 feet of the textile mill. In this situation, the taxpayer that owns the contiguous parcel may include the expenses of rehabilitating the land and improvements on the contiguous parcel in the calculation of the credit subject to the square foot limitation of Section 12-65-20(8)(b), even though the taxpayer is not renovating the textile mill. However, the Act requires that the textile mill and buildings on a textile mill site must be either renovated or demolished. S.C. Code Ann. § 12-65-20(8)(a). Therefore, each owner of a subparcel must renovate or demolish all buildings which were on the original textile mill site. Each taxpayer's eligibility for the credit is dependent on the compliance by the other owners of subparcels with the requirement to renovate or demolish the textile mill and all buildings on the textile mill site.

   In this situation, although the contiguous parcel is considered a 4(b) Site, it cannot have a contiguous parcel. In other words, a taxpayer cannot tack one contiguous parcel onto another.

10. Q. Can the credit be claimed for rehabilitating a structure on a textile mill site that is unrelated to textile manufacturing, dyeing, or finishing operations or to an ancillary use?

   A. The answer depends on whether the textile mill site is a 4(a) Site or a 4(b) Site. Expenses incurred building or rehabilitating buildings on a 4(a) Site that are not related to textile manufacturing, dyeing, or finishing operations or to uses ancillary to those operations are not included in the calculation of the credit. The definition of a 4(a) Site requires a textile mill, and the definition of a textile mill includes facilities that were initially used for textile manufacturing, dyeing, or finishing

operations and for ancillary uses to those operations. Expenses for renovating facilities on a 4(a) site that were not initially used for textile manufacturing, dyeing, or finishing or for ancillary uses are not included in the calculation of the credit.

However, if unrelated buildings exist or existed on a 4(b) Site or on a contiguous parcel, the rehabilitation expenses can be included in the calculation of the credit provided the buildings are within 1,000 feet of a textile mill structure or ancillary use structure. If the unrelated buildings are on a contiguous parcel, the rehabilitation expenses that can be included in the calculation of the credit are only those that increase the amount of square footage of the buildings that existed on that contiguous parcel immediately preceding the time at which the textile mill became abandoned by two hundred percent or less.

11. Q. How does a taxpayer measure the 1,000 feet distance that determines whether the expenses of building or rehabilitating unrelated improvements and land on a 4(b) Site or on a parcel that is contiguous to a 4(b) Site can be included in the calculation of the credit?

A. The 1,000 feet is measured from the point on the outside wall of any structure that was initially used for textile manufacturing, dyeing, or finishing operations or created for an ancillary use to the closest point on the outside wall of the unrelated structure, whether the structure is standing or not, so that the straight-line distance is minimized. If this straight-line distance is less than or equal to 1,000 feet, then the expenses of building or rehabilitating this structure may be included in the credit. Expenses of rehabilitating land that falls within 1,000 feet radius of any outside wall of the facility may also be included in the calculation of the credit. S.C. Code § 12-65-20(4)(b).

For example, if beverage bottling plant had been built on a 4(b) Site or on a parcel that was contiguous to a 4(b) Site, the thousand feet restriction is measured from a point on the outside wall of the bottling plant to the closest point on the wall of the structure that was used for textile manufacturing, dyeing, or finishing, or for ancillary uses.

12. Q. How many contiguous parcels can a textile mill site have?

A. There is no limit to the number of contiguous parcels a textile mill site can have, provided each parcel must share a common boundary with the textile mill site or be separated only by a private road, public road, or railroad right of way. However, only the expenses of renovating, rehabilitating, and redeveloping land and improvements within 1,000 feet of a textile mill structure or structure built for an ancillary use will be included in the calculation of the credit. Moreover, a contiguous parcel may not have a contiguous parcel.

13. Q. For buildings on contiguous parcels, may taxpayers claim the credit if they tear down one building and build two new buildings if combined the square footage of the buildings is less than or equal to 300% of the square footage of the buildings that existed on that contiguous parcel immediately preceding the time the textile mill was abandoned?

A. Yes. The Act does not limit "rehabilitation expenses" to expenses incurred to build the same number of buildings on the contiguous parcels. Consequently, a taxpayer may tear down one building and replace it with one or more buildings. A taxpayer could also tear down three buildings on a contiguous parcel and build one building, or could tear down two buildings, rehabilitate a third, and build a new one provided the square footage did not exceed the square footage limitation.

14. Q. Expenses used in calculating the credit for building or rehabilitating buildings on a contiguous parcel are limited to those incurred to increase the square footage of the buildings that existed on that contiguous parcel immediately preceding the time at which the textile mill became abandoned by two hundred percent. How is this limitation calculated?

A. If the square footage of the buildings that existed on the contiguous parcel immediately preceding the abandonment of the textile mill was 10,000 square feet, only the expenses to build or rehabilitate a building or buildings that combined measure 30,000 square feet or less, which is an increase of 200%, will be rehabilitation expenses for purposes of the credit. In other words, expenses incurred building or rehabilitating buildings that together measure more than 30,000 square feet are excluded from the calculation of the credit.

The Act does not limit the kinds of buildings that are included in the calculation of this square footage limitation to structures used for textile manufacturing, dyeing, or finishing operations and structures built for ancillary uses. The limit includes the square footage of "buildings that existed on the contiguous parcel immediately preceding the time at which the textile mill became abandoned." S.C. Code Ann. § 12-65-20(8)(b). Accordingly, the square footage of unrelated buildings can be included in the calculation of the limit.

Consider a taxpayer that purchases a 4(b) Site with a contiguous parcel on January 1, 2024. At that time, the 4(b) Site and the contiguous parcel had no buildings. The pre-existing textile mill was abandoned on January 1, 2021. Immediately preceding that date, the contiguous parcel had a 10,000 square foot building used to bottle beverages and a 20,000 square foot building used to recycle aluminum, but the 20,000 square foot building is more than 1,000 feet away from the preexisting textile mill. All buildings on the contiguous parcel are included in the calculation of the square foot limitation, even those that are more than 1,000 square feet from the

textile mill and those that are unrelated to textiles. Accordingly, in this case, a taxpayer could claim the credit based on expenses to rehabilitate the building used to bottle beverages or build new buildings which total 90,000 square feet or less.

15. Q. What form is used to compute and claim the income tax credit?

A. Form TC-23, "Credit for Textiles Rehabilitation," is used to compute and claim the credit. A separate Form TC-23 must be used for each textile mill site or each parcel deemed to be a textile mill site.

16. Q. One type of 4(b) Site requires a council of government to designate it as a distressed area of a county. What is a council of government?

A. Councils of governments ("COGs") are authorized by Article VII, Section 15 of the South Carolina Constitution. South Carolina's regional councils were formed by agreement of the state's counties, which are grouped together into ten regions pursuant to Section 6-7-110 of the Code. They serve as regional consultants for the counties, cities, and towns in each region to promote economic development and quality of life improvements.

17. Q. How does a COG determine what areas of a county are "distressed?"

A. The legislature did not provide guidelines for councils of government to consider when determining whether an area is distressed. However, the legislature created another body, the South Carolina Jobs-Economic Development Authority (JEDA), and charged it with determining economically distressed areas of the State. The legislature instructed JEDA to consider rates of unemployment, per capita incomes, average wage rates, and the chronic nature of economic problems when determining distressed areas. S.C. Code Ann. § 41-43-180. Similarly, these factors are relevant to the determination of distressed areas for purposes of the Act. A COG may also consider other factors that it believes are relevant to such determination.

For additional information regarding councils of government, consult the webpage sccogs.org, and the websites for each of the individual COGs, links to which can be found on the same website.

18. Q. How should a taxpayer file a Notice of Intent with the Department for the income tax credit?

A. The written Notice of Intent for the income tax credit should be emailed to TaxCredits@dor.sc.gov.

19. Q. May a taxpayer change the kind of credit he is claiming?

    A. Yes. If the taxpayer later decides to choose the alternative credit, it must withdraw the original Notice of Intent by providing written notice of withdrawal to the government agency to which the Notice of Intent was provided. The taxpayer should then file a new Notice of Intent with the other governmental agency. Expenses incurred prior to sending the second Notice of Intent will not be eligible for the credit. A Notice of Intent for a textile mill site may not be sent simultaneously to the Department and the county or municipality.

20. Q. Can a Notice of Intent be amended after it is filed?

    A. No. The Act does not allow a taxpayer to amend a Notice of Intent once it has been submitted to the Department for the income tax credit or once it has been approved by ordinance of the local governing body for the property tax credit.[7] Therefore, the accuracy of the estimated expense amount listed in the Notice of Intent is important because the credit calculation is based on the amount of actual expenses compared to the estimated expense amount reported in the Notice of Intent (even if a taxpayer inadvertently includes other expenses in the Notice of Intent, such as personal property costs or acquisition costs).

    Note: Considering the publication of this Revenue Ruling, for a taxpayer who has filed a Notice of Intent with the Department and has not placed the site in service, the Department will allow amendments of the Notice of Intent until June 10, 2025.

21. Q. If multiple parcels are combined into one textile mill site, does the taxpayer need to submit multiple Notices of Intent?

    A. No. The taxpayer is only required to submit one Notice of Intent for each textile mill site. However, the Notice of Intent should identify the parcels that are being combined into one site.

22. Q. What are some guidelines to consider when filing the Notice of Intent to avoid any credit reduction or ineligibility?

    A. When filing a Notice of Intent, consider the following guidelines:

        1. The Notice of Intent must contain a specific dollar amount of estimated rehabilitation expense for the textile mill site. A range of expenses, such as "$1 million to $5 million," is not acceptable.

[7] The Notice of Intent for a taxpayer seeking the property tax credit may be amended prior to final approval by ordinance of the local governing body provided the rules of the governing body allow amendment.

2. The specific amount of estimated rehabilitation expenses reported in the Notice of Intent should include only those expenses that qualify as rehabilitation expenses under the Act.

3. Carefully consider and designate whether the textile mill site is to be renovated or demolished as one or more parcels.

4. File a separate Notice of Intent for each parcel of a textile mill site that will be redeveloped or rehabilitated separately. The separate Notices of Intent for the income tax credit may be mailed together. In multiple parcel rehabilitations, it is possible for the taxpayer to select the income tax credit for one or more parcels and the property tax credit for other parcel(s). In such cases, taxpayers selecting the property tax credit should notify the Department that a Notice of Intent has been submitted to the county or municipality.

5. File one Notice of Intent for a textile mill site that is anticipated to be completed in phases. The one Notice of Intent should report a total of expenses for the entire rehabilitation; it should not report estimated costs by phases. The answer is different for a site divided into parcels. S.C. Code Ann. § 12-65-20(9).

6. A taxpayer may not file a "protective" Notice of Intent with both the Department and the county or municipality while deciding whether to take the income tax credit or the property tax credit. S.C. Code Ann.§ 12-65-30(A).

7. A Notice of Intent provided to the Department does not represent approval of the taxpayer's eligibility for the credit, approval of the estimated rehabilitation expenses, or approval of the credit amount.

8. The appropriate taxpayer(s) should file the Notice of Intent. The person who will be incurring the rehabilitation expenses and placing the site in service is the person who should file the Notice of Intent. For example, the taxpayer may be the developer, the building owner, the tenant with a ground lease, or the pass-through entity (not the individual partners, shareholders or members) incurring the rehabilitation expenses.

23. Q. What kinds of expenses qualify as rehabilitation expenses for purposes of the credit?

A. Below are examples of expenses that qualify as rehabilitation expenses:

- Renovation costs of existing building (e.g., interior demolition, movement of walls, replacing floors, ceilings, or roofs, wall to wall carpet, permanent tiles and paneling, central HVAC systems, plumbing, electrical wiring, fixtures, sprinkler systems and elevators)
- Redevelopment costs of existing buildings

- Demolition costs of an existing building, (i.e., the complete destruction or removal of the building) when a site is rehabilitated
- Construction of new buildings
- Environmental remediation (e.g., abatement of lead paint, removal of asbestos or mold, removal of underground oil tanks)
- Site improvements (e.g., sidewalks, fences, and docks)
- Other improvements on the textile mill site (e.g., landscaping, drainage, or paving)
- Professional fees associated with redevelopment of the site, including engineering and architectural fees
- Interest costs on construction loans
- Expenses paid from grant proceeds when the grant money is taxable
- Expenses paid by the taxpayer under a "tenant improvement allowance" with the lessee for improvements to the real property to customize the space to fit a tenant's needs (e.g., costs incurred for adding permanent walls, permanent paneling or tiling, lighting, wiring, and cable)

Below are examples of expenses that do not qualify as rehabilitation expenses:

- Cost of acquiring the textile mill, land and other improvements, including the purchase price
- Expenses incurred prior to filing the Notice of Intent for the property tax credit and prior to filing the Notice of Intent if the Notice of Intent for the income tax credit is filed after receiving the building permits for the textile mill site
- Cost of personal property at the textile mill site (e.g., furniture, appliances, window treatments). See above discussion for guidance on distinguishing real property costs from personal property costs.
- Professional fees associated with the purchase of the site (e.g., title work, surveying, closing costs)
- Interest costs to purchase the site
- Expenses paid from nontaxable grant money
- Expenses paid under a "tenant improvement allowance" for personal property costs (e.g., cubicles, office furniture, etc.) or moving costs

24. Q. Can the costs of installing revenue-generating solar panels on a building qualify as rehabilitation expenses?

A. Pursuant to the Act, rehabilitation expenses are limited to capital expenditures incurred in the rehabilitation, renovation, or redevelopment of the textile mill site. They do not include expenses incurred to purchase personal property for the site. S.C. Code Ann. § 12-65-20(8)(a). If an expense is incurred to purchase personal property, it will qualify as a rehabilitation expense only if the property is physically

annexed to the textile mill site in such a way that it becomes a permanent part of the site; in other words, it becomes a fixture. *Creative Displays, Inc. v. S.C. Highway Dep't*, 272 S.C. 68, 72, 248 S.E.2d 916, 917 (1978). To determine whether personal property has become a fixture, the Department will consider (i) the mode of attachment; (ii) the character of the structure or the article; (iii) the intent of the parties making the annexation; and (iv) the relationship of the parties. *City of North Charleston v. Claxton,* 431 S.E.2d 610 (S.C. 1993). Accordingly, whether the costs of revenue generating solar panels qualify as rehabilitation expenses depends on whether the circumstances of the installation indicate the panels have essentially become permanent parts of the building and are therefore considered fixtures instead of personal property.

No South Carolina court has addressed whether solar panels are fixtures or personal property. Courts who have considered the status of solar panels have generally held that they are personal property. *E.g.*, *In re Evans*, 656 B.R. 848 (Bankr. D.N.M. 2023) (solar panel system installed on roof of debtors' house were not "fixtures" as the panels could be easily removed without damaging the house, the system was not adapted or applied to the use or purpose to which that part of the realty to which it was connected was appropriated, as the solar panels would function just as well if they were installed in a yard next to the house, and the debtor's intent was to have the system retain its character as consumer goods); *SolarCity Corp. v. Ariz. Department of Revenue*, 243 Ariz. 477, 413 P.3d 678 (2018) (solar panels were not taxable as part of the real property where installed but constituted the personal property of the taxpayer/manufacturer/installer who leased the solar panels to homeowner customers); *but see Energy Control Services, Inc. v. Arizona*, 68 P.2d 820, 824 (Ariz. Ct. App. 1082) (solar water heating system is a fixture because it is annexed to the realty, is adaptable to the use or purpose for which the realty is appropriated, and demonstrates the intention of the party making the annexation to make a permanent accession to the freehold); *In re Arlett*, 22 B.R. 732 (Bankr. E.D. Cal. 1982) (solar water heater, which was attached to roof of debtors' residence by means of bolts as well as plumbing, was a "fixture" under California law because the heater was annexed to residence in permanent manner, was designed and fabricated for supplying hot water to the residence, and the parties' intended to attach the heater permanently).

If solar panels are easily removable without damage to the building and the character of the panels is income producing instead of providing power to the rehabilitated or new building, the panels are personal property.

The personal property/fixture determination may be different for other tax purposes, including property tax or gains on Internal Revenue Code Section 1245 property.

25. Q. When is an expense incurred for purposes of the Act?

A. An expense is incurred by the taxpayer on the date such expenditure would be considered incurred under the accrual method of accounting, regardless of the method of accounting used by the taxpayer with respect to other items of income and expense.

26. Q. What is the carry forward period for the income tax credit and who may carry forward unused credit?

A. Any unused credit may be carried forward for 5 years. SC. Code Ann. § 12-65-30(C)(3).

The credit installment and the carry forward years are illustrated below.

Credit Installment	**Year 1**	**Year 2**	**Year 3**	**Year 4**	**Year 5**
Amount	20%	20%	20%	20%	20%
Carry forward of Installment	Years 2-6	Years 3-7	Years 4-8	Years 5-9	Years 6-10

27. Q. If the textile mill site is sold prior to being placed in service, can the income tax credit be transferred from the seller to the purchaser?

A. No. The credit is only earned when the site is placed in service. If no credit has been earned, then there is no credit to transfer.

A buyer of a partially rehabilitated textile mill site can independently qualify for the tax credit for expenses it incurs rehabilitating, renovating, and redeveloping the site if it files a Notice of Intent before obtaining any required building permits and if it meets the other requirements of the Act. Only the expenses incurred by a buyer after filing a Notice of Intent will be rehabilitation expenses for purposes of the credit.

28. Q. If the textile mill site is sold prior to being placed in service but after redevelopment has begun, can a buyer use rehabilitation expenses paid by the seller in the buyer's calculation of the credit?

A. Yes. The buyer can include rehabilitation expenses paid by the seller provided the facility has not previously received textile mill credits; however, the amount of credits a buyer can claim is limited to an amount equal to the difference between the purchase price paid by the buyer and the purchase price paid by the seller. These limitations are based on Section 12-65-30(D), which states a taxpayer is not eligible for the credit if the facility has previously received textile mill credit, and Section 12-65-20(8)(a), which excludes the cost of acquiring the textile mill site from the

definition of rehabilitation expenses. If the buyer pays less for the site than the seller paid, the buyer cannot include any of the seller's rehabilitation expenses in the credit calculation.

For example, Developer A purchases a textile mill site for $10,000 and incurs rehabilitation expenses of $50,000. Prior to placing the project in service, Developer A sells it to Developer B for $35,000. Developer B can include up to $25,000 of Developer A's rehabilitation credits in his calculation of the credit.

The buyer must file a new Notice of Intent which, in addition to other required information, separately states the purchase price of the site paid by the seller, the purchase price paid by the buyer, and the amount of rehabilitation expenses the buyer is including in his calculation of the credit which were paid by the seller.

29. Q. Can an income tax credit be transferred more than one time?

A. Yes, provided the transfer of the earned credit is to a new owner or lessee of all or a part of the textile mill site. The credit by itself cannot be bought or sold outside of a sale of the textile mill site.

30. Q. May the property tax credit be transferred?

A. No. Unless otherwise provided, a property tax credit must be used by the taxpayer who earns it. The provisions of the Act which allow transfer of the credit only apply to the income tax credit. S.C. Code Ann. § 12-65-30(C).

31. Q. When and how does a transferor notify the Department of an income tax credit transfer?

A. The transferor must notify the Department in writing within 60 days after the transfer. The written notice of transfer to the Department should contain the following information:

i. The complete name, address, telephone number and the last 4 digits of the taxpayer identification number of the transferor of the credit;

ii. The complete name, address, telephone number and last 4 digits of the taxpayer identification number of each transferee of the credit;

iii. The complete address and tax map number of the textile mill site;

iv. The total amount of credit currently available to be transferred (*i.e.* the total amount of credit less any credits used or carried forward by the transferor in the current or prior tax years because credit that is carried forward remains with the transferor);

v. The date the original credit was earned (the date the site was placed in service) and the amount of each credit installment;

vi. The date the credit was transferred;

vii. The amount of the credit transferred, which may be all or less than the remaining credit associated with the rehabilitation expenses incurred for the transferred property;

viii. The transferor must provide a waiver of the right to claim that portion of the credit that was transferred;

ix. The transferor's remaining credit balance after the transfer;

x. The consideration paid by the transferee, if any; and

xi. Any other information requested by the Department.

The written notice should be emailed to TaxCredits@dor.sc.gov. S.C. Code Ann. § 12-65-30(C)(6)(b).

32. Q. What form is used to claim a transferred income tax credit?

A. The transferee claims a transferred credit on Form TC-23, "Credit for Textiles Rehabilitation," by completing applicable portions of the form.

33. Q. What credit amount may the transferee claim?

A. The original income tax credit is earned in the year the textile mill site is placed in service but is claimed over a 5-year period in equal installments. When the site is transferred, any remaining credit associated with the rehabilitation expenses for the site may be transferred to the transferee. For example, if the original taxpayer sells the site in Year 3, the taxpayer may transfer the credit installments for Years 3, 4 and 5. The transferor may transfer any or all the remaining associated credit.

Any credit carry forward resulting from the installments for Years 1 and 2 remain with the original taxpayer and may not be transferred. S.C. Code Ann. §§ 12-65-30(C)(3) and (6).

34. Q. What is the credit carry forward period for a transferred credit?

A. Each annual installment of the credit transferred may be carried forward for 5 years. A transfer does not extend the time a credit can be used. S.C. Code Ann. § 12-65-30(C)(3).

35. Q. Is the basis of any new or rehabilitated building on the textile mill site reduced by the amount of the income tax credit?

A. No. The Act does not require a taxpayer to adjust basis after claiming the credit.

36. Q. Is there any recapture of the income tax credit?

A. No. The Act does not require credit recapture.

37. Q. Does the Act contain a sunset provision?

A. No.

SOUTH CAROLINA DEPARTMENT OF REVENUE

w/Hartley Powell
W. Hartley Powell, Director

February 10, 2025
Columbia, South Carolina