

## ***PART C: GENERAL BUSINESS CREDIT***

### **17. CREDIT FOR INVESTING IN PROPERTY IN SOUTH CAROLINA**

S.C. Code Ann. § 12-14-60 allows a taxpayer a credit against income taxes for qualified manufacturing and productive equipment properties placed in service during the taxable year in South Carolina.

The amount of the credit for qualifying investments is:

- ◆ 1/2% of the total aggregate bases of 3-year property
- ◆ 1% of the total aggregate bases of 5-year property
- ◆ 1 1/2% of the total aggregate bases of 7-year property
- ◆ 2% of the total aggregate bases of 10-year property
- ◆ 2 1/2% of the total aggregate bases of 15-year or greater property.

Whether property is 3, 5, 7, 10, or 15 year or greater property is determined by the applicable recovery period for the property under I.R.C. § 168(e).

The credit claimed is limited to \$5 million for a taxpayer subject to the license tax under S.C. Code Ann. § 12-20-100. This credit does not apply to any property to which other tax credits apply, such as the headquarters credit, infrastructure credit, the textile rehabilitation credit, or the abandoned building credit unless the qualifying business waives the application of such credits. Any unused credit may be carried forward for 10 years. An unlimited carryforward is allowed for certain manufacturing taxpayers having significant capital investments and employment in South Carolina; however, a carryforward beyond 10 years cannot reduce the tax liability in a subsequent year by more than 25%. The credit is claimed on Form TC-11, "Capital Investment Credit." Any recapture is reported on Form TC-11R, "Recapture of Capital Investment Credit."

Rules exist requiring:

1. Property basis reduction for the amount of the credit claimed.
2. Recapture of the credit if the property is disposed of or removed from the state before the end of the applicable recovery period. A pro rata portion of the credit previously claimed for that property must be recaptured. A taxpayer required to recapture the credit may increase the basis of the property by the amount of any basis reduction attributable to the credit claimed in prior years. The basis must be increased in the year of recapture.

For the purpose of this credit, “qualified manufacturing and productive equipment property” is any property that is:

- ◆ Constructed, reconstructed, or erected in South Carolina or acquired by the taxpayer if the original use of such property begins with the taxpayer inside this state, and which is:
  1. Used as an integral part of manufacturing, production, or extraction of or furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services in the economic impact zone (state),
  2. Tangible property depreciable under I.R.C. § 168, and
  3. I.R.C. § 1245 property.
- ◆ Computer software that may be depreciated or amortized that is used to control or to monitor a manufacturing or production process inside South Carolina.

In SC Private Letter Ruling #98-2, the Department reviewed whether a company providing residential and business telephone service to South Carolina economic impact zone counties qualified for the tax credit. Based upon the facts, the Department concluded that the providing of telephone service is the business of “furnishing communications” that is eligible for the economic impact zone credit. Also, the Department determined which of the company’s property constituted an integral part of furnishing communications.

**NOTE:** Although there are no longer “economic impact zones” in South Carolina, this ruling still has relevance as to what qualifies as an integral part of “furnishing communications”.

## **18. CORPORATE HEADQUARTERS CREDIT**

### **a. General Provisions**

S.C. Code Ann. § 12-6-3410 allows a corporation a credit against corporate income tax imposed under S.C. Code Ann. § 12-6-530, corporate license fees imposed under S.C. Code Ann. §§ 12-10-50 or 12-20-100, or bank taxes imposed under S.C. Code Ann. § 12-11-20, equal to 20% of the qualifying costs of establishing a corporate headquarters in South Carolina, or expanding or adding to an existing corporate headquarters. The credit is made up of two parts: Part I – the real property costs and Part II – the personal property costs. A taxpayer may qualify for only Part I of the credit or may qualify for both Parts I and II of the credit.

Any unused credit may be carried forward for 10 years, or if the 75 new job and per capita income requirements set forth in S.C. Code Ann. § 12-6-3410(D) are met, the credit can be carried forward for 15 years. In addition, a taxpayer may assign its rights to the unused credit to

a succeeding taxpayer if the taxpayer transfers all, or substantially all, of the assets of: (1) the taxpayer, or (2) a trade, business, or operating division of a taxpayer, to the succeeding taxpayer, and the succeeding taxpayer maintains the corporate headquarters of the taxpayer.

No credit may be claimed for a tax year during which the corporation or succeeding corporation fails to maintain the qualifying employment requirements. The carryforward period is not extended for any year in which the credit may not be claimed for failure to maintain the employment requirements, but the remaining eligible carryforward may be claimed in the year that the corporation requalifies for the credit by re-meeting the employment requirements. The credit is claimed on Form TC-8, "Corporate Headquarters Credit." If a taxpayer claims the headquarters credit, for South Carolina income tax purposes, the basis of any property used to calculate the credit must be reduced by the amount of the credit claimed.

Each part of the corporate headquarters credit has specific minimum investment and job creation requirements. These are:

◆ Part I: Real Property Component of the Credit

In order to qualify for the real property component of the headquarters credit, the following requirements must be met:

1. The qualifying real property costs must be at least \$50,000. For corporations constructing a headquarters, these costs are costs incurred in the design, preparation, and development of establishing or adding to a corporate headquarters, and direct construction costs. For corporations leasing a facility, these costs are direct lease costs during the first 5 years of corporate headquarters operations.
2. The headquarters establishment, addition, or expansion must create at least 40 new, full-time, permanent jobs in South Carolina performing headquarters related functions and services or research and development related functions and services. At least 20 of these jobs must be headquarters staff employees performing headquarters related functions and services. Each of these terms is defined in S.C. Code Ann. § 12-6-3410(J).

The real property portion of the headquarters credit is equal to 20% of:

1. Qualifying real property costs incurred in the design, preparation, and development of establishing, expanding, or adding to a corporate headquarters; and
2. Direct construction costs or, with respect to leased facilities, direct lease costs for the first 5 years of operations for the corporate headquarters. Direct lease costs are cash lease payments and do not include any accrued, but unpaid costs.

## ◆ Part II: Personal Property Component of the Credit

A headquarters that meets the real property costs and job requirements above may also qualify for an additional credit equal to 20% of the cost of tangible personal property if certain requirements are met. In order to qualify for the personal property component of the credit, the following requirements must be met:

1. The personal property must be purchased for the establishment, expansion, or addition of a corporate headquarters or research and development facility which is part of the same corporate project as the headquarters establishment or expansion.
2. The personal property must be used for corporate headquarters or research and development related functions and services in South Carolina. The credit may not be claimed; however, for personal property which is replacing personal property for which the credit can be claimed.
3. The personal property must be capitalized for income tax purposes under the Internal Revenue Code.
4. The headquarters or research and development establishment or addition must create at least 75 new, full-time jobs performing headquarters related or research and development related functions and services. At least 20 of these jobs must be headquarters staff employees.
5. The 75 headquarters jobs created must have an average cash compensation level of more than twice the South Carolina per capita income based on the most recent per capita income data available as of the end of the taxpayer's tax year in which the jobs are filled.

The state per capita income figures are received at least annually from Revenue and Fiscal Affairs. As of April 2023, the most recent data available indicates South Carolina per capita income is \$ 53,320. SC Revenue Ruling #99-11 provides that if the taxpayer is a calendar year taxpayer, the state per capita income figure available as of December 31 of the tax year in which the 75<sup>th</sup> new, full-time employee is hired is used in determining if the pay requirements have been met.

### **b. Qualifying Headquarters**

S.C. Code Ann. § 12-6-3410(J)(1) defines "corporate headquarters" as the facility or portion of a facility where corporate staff employees are physically employed, and where the majority of the company's or company's business unit's financial, personnel, legal, planning, information technology, or other headquarters related functions are handled either on a regional, national, or global basis. A "company business unit" is an organizational unit of a corporation or bank and is defined by the particular product or category of product it sells.

S.C. Code Ann. Regs. 117-750.1 defines the term “facility.” A “facility” is generally a single physical location where a taxpayer’s business is conducted or where its services or industrial operations are performed. Where two or more distinct and separate economic activities are performed at a single physical location, each separate economic activity will be treated as a separate facility when: (1) each activity has its own separate and dedicated personnel; (2) separate reports can be prepared on the number of employees, their wages and salaries, sales, or receipts and expenses; and (3) employment and output are significant as to the activity. For purposes of item (2), it is irrelevant if separate reports are actually prepared, so long as separate reports can be prepared, this criteria is met.

A corporate headquarters must be a regional corporate headquarters, a national corporate headquarters, or a global corporate headquarters to qualify; however, a corporate headquarters of a taxpayer subject to bank taxes must be a regional corporate headquarters and must have two or more branches in each state within its region. (The term “branch” is defined in S.C. Code Ann. § 34-25-10(8).) A corporation doing business solely within South Carolina does not meet the definition of a corporate headquarters. These terms are defined in S.C. Code Ann. § 12-6-3410(J) as follows:

1. A “national” corporate headquarters must be the sole corporate headquarters in the nation and handle headquarters related functions at least on a national basis. The corporation must have a facility in South Carolina from which it engages in interstate business to qualify for the headquarters credit.
2. A “regional” corporate headquarters must be the sole corporate headquarters within the region and must handle headquarters related functions on a regional basis. “Region” or “regional” means a geographic area comprised of: (a) at least 5 states, including South Carolina, or either (b)(1) 2 or more states, including South Carolina, if the entire business operations of the corporation are performed within fewer than 5 states or (b)(2) for banks, 2 or more states, including South Carolina, if all branches of the taxpayer subject to bank taxes under Chapter 11 of Title 12 are physically located in fewer than 5 states, and the bank has at least 2 branches in each state within the region.

### **c. Examples**

Examples best explain the timeline for meeting the requirements and claiming the credit.

◆ Example 1: Assume a corporate headquarters is placed in service in one year.

The claiming of the credit and the staffing requirements are as follows:

Year 1 – First property placed in service for federal income tax purposes. Credit is claimed.

Year 3 – Staffing requirements must be met or the credit claimed is recaptured.

- ◆ Example 2: Assume the corporate headquarters is placed in service over a 3-year period or that 5 years of direct lease costs are incurred. The claiming of the credit and the staffing requirements are as follows:

Year 1 – First property placed in service for federal income tax purposes or first year direct lease costs are incurred. Credit may be claimed for these costs.

Year 2 – Additional property placed in service or direct lease costs incurred. Credit may be claimed for these costs.

Year 3 – Additional property placed in service or direct lease costs incurred. Credit may be claimed for these costs.

Year 4 – Last year credit may be claimed for direct construction costs, design, preparation, and development costs. Credit may be claimed for direct lease costs.

Year 5 – Last year credit may be claimed for direct lease costs.

Year 6 – Staffing requirements must be met, if facility is constructed; otherwise, credits claimed must be recaptured.

Year 7 – Staffing requirements must be met, if facility is leased; otherwise, credits claimed must be recaptured.

See Business Property Tax, Chapter 4, Section 6, for information on a 5-year exemption from certain property taxes for corporate headquarters facilities.

## **19. CREDIT FOR INFRASTRUCTURE CONSTRUCTION**

S.C. Code Ann. § 12-6-3420 allows a corporation a credit against corporate income tax or bank tax equal to 50% of the contributions or expenses paid or accrued by the taxpayer for the construction or improvement of water lines, sewer lines, and road projects that are dedicated to public use or deeded to a qualifying private entity. A credit is available for each infrastructure project of the taxpayer, but is limited to \$10,000 per project per year. Any unused credit, up to \$30,000 for each project, may be carried forward for 3 years. The maximum infrastructure credit that may be claimed for each project is \$40,000. The credit is claimed on Form TC-6, "Infrastructure Credit." An infrastructure project includes water and sewer lines, their related facilities, and roads that:

1. Do not exclusively benefit the taxpayer;
2. Are built to applicable standards; and
3. Are dedicated to public use or, in the case of water or sewer lines in areas served by a private water and sewer company, are deeded to a qualified private entity.

If the project benefits more than the taxpayer, the expenses must be allocated to the various beneficiaries, and only those expenses not allocated to the taxpayer's benefit qualify for the credit. A qualifying private entity is not allowed a tax credit for expenses it incurs in building or improving facilities it owns, manages, or operates.

In *Centex International, Inc. v. South Carolina Dept. of Revenue*, 406 S.C. 132, 750 S.E. 2d 65 (2013), the South Carolina Supreme Court held that under the infrastructure credit statute (S.C. Code Ann. § 12-6-3420) which provides that a corporation could claim a credit for construction or improvement of an infrastructure project against corporate income taxes for expenses paid or accrued by the taxpayer, the legislature intended that a corporation had to be the entity that incurred the expenses to generate the tax credit and thus, a partnership was precluded from earning the infrastructure credit.

## **20. CREDIT AGAINST LICENSE TAX FOR INFRASTRUCTURE**

S.C. Code Ann. § 12-20-105 allows a taxpayer subject to the license fee imposed on South Carolina property and gross receipts under S.C. Code Ann. § 12-20-100, such as a power company, water company, gas company, or telephone company, a credit against its license tax liability for 100% of the amount paid in cash for infrastructure for an eligible project of another taxpayer. A taxpayer is not allowed a credit for actual expenses it incurs in the construction and operation of any building or infrastructure it owns, leases, manages, or operates.

The maximum credit that may be earned in any tax year by a taxpayer is \$600,000. However, for a project located in Tier II County an additional \$50,000 of credit is available. For a project located in a Tier III county or a Tier IV county, an additional \$100,000 and \$150,000 credit is available, respectively. To qualify for the additional credit amounts, the total amount of the taxpayer's credit claim must be in a single qualifying county, with one limited exception. In no instance, may the credit reduce the license tax liability of the taxpayer below zero. Any unused credit can be carried forward to the next succeeding year. A taxpayer that claims this credit may not claim the credit for infrastructure construction in S.C. Code Ann. § 12-6-3420 (discussed above in Section 17).

The statute 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. These improvements include, but are not limited to:

- ◆ Improvements to either public or private water and sewer systems.
- ◆ Improvements to either public or private electric, natural gas, and telecommunications systems including, but not limited to, ones owned or leased by an electric cooperative, electrical utility, or electric supplier as defined by Chapter 27, Title 58.
- ◆ Fixed transportation facilities including highway, road, rail, water, and air.

For projects located in a qualifying park as discussed below, the following additional expenditures qualify as eligible expenditures:

- ◆ Shell buildings and the purchase of land for an office, business, commercial, or industrial park constructed by a county, political subdivision, or agency of the state. The credit provisions do not prohibit the county or political subdivision from selling the shell building or all or a portion of the park after a company has paid cash to provide infrastructure to the eligible project.
- ◆ Incubator buildings owned by a county, political subdivision or agency of the state if the ownership of the building is retained by the county, political subdivision or agency of the state.
- ◆ Due diligence expenses, as defined in S.C. Code Ann. § 12-20-105(C)(5), relating to environmental conditions if the expenses are incurred by a county or political subdivision after it has acquired contractual rights to an industrial park.
- ◆ Site preparation costs including clearing, grubbing, grading and stormwater retention, and refurbishment of buildings that are owned or constructed by a county or municipality if the buildings are used exclusively for economic development.
- ◆ Land acquisition and preparation costs, new construction costs, improvements and upgrades to existing facilities, and any other capital costs associated with a qualifying multi-use sports and recreation complex.
- ◆ Cash payments for the purpose of defraying public debt used to build qualifying infrastructure.

To be considered an eligible project, the project must qualify for income tax credits under Chapter 6 of Title 12, withholding tax credits, under Chapter 10 of Title 12 (job development or retraining benefits), income tax credits under Chapter 14 of Title 12 (South Carolina investment tax credit), or fee in lieu of property taxes under Chapter 12 of Title 4 (“Little Fee”), Chapter 29 of Title 4 (“Big Fee”), or Chapter 44 of Title 12 (“Simplified Fee”).

Alternatively, if a project is located in an office, business, commercial, or industrial park, or combination of these, 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 above requirements in order to be considered an eligible project.

For a county that collects at least \$5 million in accommodations tax in a single fiscal year, a multi-use sports and recreation complex owned by a county or municipality qualifies as an eligible project. If a project qualifies under this provision, debt payments on any loans or bonds issued to pay for eligible infrastructure at the project are considered qualifying expenditures.



A taxpayer may enter into a multi-year commitment to provide cash for eligible infrastructure for a qualifying project. If the taxpayer enters into an agreement, and the qualifying project is not constructed by the end of the applicable tax year, the taxpayer may provide cash in that year or a future year to another qualifying project and retain the credit.

For more information about this credit and a question and answer document concerning this credit, see SC Revenue Ruling #18-8. A taxpayer may request an informal, nonbinding letter from the Department concerning eligibility for the credit. There is a \$35 fee for the issuance of such letter.

## **21. RESEARCH AND DEVELOPMENT CREDIT**

S.C. Code Ann. § 12-6-3415 allows a taxpayer a credit against any tax due under Chapter 6 of Title 12 (income tax) or under S.C. Code Ann. § 12-20-50 (corporate license fees based on capital stock and paid-in surplus) equal to 5% of its qualified research expenses made in South Carolina. The credit is limited to 50% of the taxpayer's tax liability remaining after all other credits have been applied. Any unused credit can be carried forward, but must be used before a taxable year beginning 10 years or after from the date of the qualified research expenses. The credit is claimed on Form TC-18, "Research Expenses Credit."

For a taxpayer to qualify for the credit, the taxpayer must claim a federal income tax credit pursuant to I.R.C. § 41 for increasing research activities for the taxable year. For purposes of this credit, qualified research expenses has the same meaning as provided in I.R.C. § 41.

## **22. PORT CREDITS**

### **a. Port Volume Increase Credit**

#### **General Provision**

S.C. Code Ann. § 12-6-3375(A) provides a tax credit to a taxpayer engaged in manufacturing, warehousing, freight forwarding, freight handling, goods processing, cross docking, transloading, wholesaling of goods or distribution that uses South Carolina port facilities and increases its port cargo volume at these facilities by at least 5% in a calendar year over its base year port cargo volume. The credit may be claimed against income taxes or employee withholding taxes.

The amount of credit and the type of taxes (income or withholding) the credit may offset is determined by the Coordinating Council for Economic Development ("Council") upon application by the taxpayer. Any unused income tax credit may be carried forward for 5 years and unused withholding tax credits may be carried forward for 20 quarters. Form TC-30, "Port Cargo Volume Increase Credit," is used to claim the income tax credit.

## Base Year and Cargo Requirements

To qualify for the credit. The base year volume of cargo transported must be at least 75 net tons of non-containerized cargo, 385 cubic meters, or 10 “twenty-foot equivalent units” (*i.e.*, TEUs.)

Initial Base Year. The initial “base year port cargo volume” is the total amount of net tons of non-containerized cargo or TEUs of cargo actually transported by way of a waterborne ship through a port facility during January 1 – December 31st of the same year. If the taxpayer did not transport at least 75 net tons of non-containerized cargo, 385 cubic meters or 10 TEUs of cargo during the calendar year, or the taxpayer was not located in South Carolina during that year, then the initial base year is the first calendar year that the taxpayer meets the cargo requirements. The initial base year cannot be 0.

Base Year Recalculation. Base year port cargo volume must be recalculated every calendar year.

### b. Port Transportation Credit

#### General Provisions

S.C. Code Ann. § 12-6-3375(l) provides a tax credit to a taxpayer engaged in manufacturing, warehousing, freight forwarding, freight handling, goods processing, cross docking, transloading, wholesaling of goods or distribution that uses South Carolina port facilities and incurs transportation costs to and from a South Carolina port. The credit may be claimed against income taxes or employee withholding.

The amount of credit and the type of taxes (income or withholding) the credit may offset is determined by the Council upon application by the taxpayer. Any unused income tax credit may be carried forward for 5 years and unused withholding tax credits may be carried forward for 20 quarters. Form TC-30, “Port Cargo Volume Increase Credit,” is used to claim the income tax credit.

#### Maximum Credit Amounts and Expiration of the Credit

The maximum amount of port transportation credit allowed to all qualifying taxpayers for a calendar year is limited to \$3 million dollars until the credit expires.

A taxpayer cannot claim the port transportation cost credit in any tax year after the tax year a port in Jasper County is opened and accepting shipments.

A taxpayer is eligible for the port transportation credit even if it does not qualify for the port volume increase credit under S.C. Code Ann. § 12-6-3375(A). **However, a taxpayer may not claim both the port volume increase credit and the port transportation credit in the same year.**

### **c. Definitions**

S.C. Code Ann. § 12-6-3375(C) provides the following definitions for both credits:

“Port facility” is any publicly or privately owned facility located within South Carolina through which cargo is transported by way of a waterborne ship or vehicle to or from destinations outside South Carolina and which handles cargo owned by the port facility’s owner and third parties.

“Port cargo volume” is the total amount of net tons of non-containerized cargo or containers measured in twenty-foot equivalent units transported by way of a waterborne ship or vehicle through a port facility or measured cubic meters of cargo.

“Twenty-foot equivalent unit” (TEU) is a volumetric measure based on the size of a container 20 feet long, by 8 feet wide, by 8 feet 6 inches high. A “weighted TEU” is equal to 7½ tons. A “measured TEU” is equal to 38½ cubic meters.

“Transportation costs” are the costs of transporting freight, goods, and materials to and from port facilities in South Carolina.

### **d. Application, Allocation, and Certification Process**

Upon application by the taxpayer to the Council, the credits are determined and certified. The following briefly explains the process.

Step 1: Application Process – To receive the credit, an “Application for International Trade Incentive Program Tax Credit,” must be submitted to the Council after the calendar year in which the qualifying increase occurs or transportation costs are incurred. The application, additional information requested to be submitted, and the certification procedures may be obtained from the Council staff at 803-737-2024. There is no application fee.

Step 2: Credit Allocation - The total port volume increase credit or port transportation credit that the taxpayer will receive is determined by the Council. The total credit available for all qualifying taxpayers may not exceed \$15 million for each calendar year for both credits. Further, the amount of port transportation credit that may be awarded is limited as described above. The Council determines whether a taxpayer may claim an income tax credit, a withholding tax credit, or both, and how much credit the taxpayer will receive.

Step 3: Credit Certification - The Council will issue a credit certification form to the taxpayer once the credit allocation has been made. The Council has sole discretion in allocating the port credit.

In addition to the above credits, the Council may annually award up to \$1 million dollars in withholding credit to a new warehouse or distribution facility which commits to spending at least \$40 million at a single site and creating at least 100 new full-time jobs if the base year cargo is at least 5,000 TEUs or its non-containerized equivalent. Certain restrictions apply if the Council awards the credit to a qualifying facility.

Additionally, a taxpayer may be eligible for a credit if it is engaged in the movement of goods imported or exported through South Carolina port facilities if the cargo supports a presence in South Carolina but the taxpayer does not have a distribution facility in the State at the time of initial approval of the port credit if: (1) the taxpayer employs at least 250 full-time (or full-time equivalent) jobs in South Carolina; (2) the taxpayer constructs and operates a distribution facility in the State within 5 years of initial approval for the credit; and, (3) the base year cargo volume equals or exceeds 5,000 TEUs or its non-containerized equivalent.

A taxpayer may not claim both the port volume increase credit and the port transportation credit in the same year.

**e. Example**

An example best explains the timeline for meeting the requirements of, and claiming, the port volume increase credit.

Calendar Year	2022	2023	2024	2025	2026	2027
Net Tons of Non-containerized Cargo Transported	0	100	105	107	120	140
Less: Previous Base Year (must be recalculated every year)		N/A* (base year must be 75 or more)	100	105	107	120
Increase in Volume			5	2	13	20
Qualification – Increase by 5%		No	Yes	No	Yes	Yes
Submission of Application to Council			Submit application after December 31, 2024		Submit application after December 31, 2026	Submit application after December 31, 2027

**23. CREDIT FOR INCREASING PURCHASES OF SOUTH CAROLINA AGRICULTURAL PRODUCTS**

S.C. Code Ann. § 12-6-3378 provides a tax credit against either income tax or employee withholding for agribusiness operations and agricultural packaging operations (as defined in S.C. Code Ann. § 12-6-3360) who increase their purchases of agricultural products designated as Certified South Carolina Grown by the South Carolina Department of Agriculture by 15% over their base year. A taxpayer is not eligible for this credit unless its base year purchases exceeds

\$100,000, and the base year must be recalculated each calendar year after the initial base year.<sup>1</sup>

The amount of the credit is determined by, and at the discretion of the Coordinating Council for Economic Development (“Council”), and is limited to \$100,000 per taxpayer in any tax year. The maximum amount of credit for all taxpayers is \$2 million dollars. A taxpayer may carry forward any excess credit against income tax for 15 years, while the excess credit against employee withholding may be carried forward for 20 quarters.

To claim the credit, a taxpayer must submit an application to the Council after the calendar year in which the increase in purchases of certified products occurs. The application and the certification procedures may be obtained from the Council staff at 803-737-2024. In addition to other information requested by the Council or the Department, the taxpayer must attach the following information to its application:

1. A description of how the base year and increase in purchases of certified products was determined;
2. The amount of base year purchases of certified products;
3. Amount of increase as a total and a percentage, including information showing the increase exceeds 15%;
4. Any tax credit utilized by the taxpayer in prior years; and
5. The amount of tax credit carried over from prior years.

Factors considered by the Council in determining allocation of this credit include (1) the amount of base year purchases of certified agricultural products; (2) the total and percentage increase in purchases; and (3) factors related to the economic benefit to the State or other factors. Furthermore, the Department of Commerce and the Department of Agriculture may establish guidelines necessary to ensure all applications, product certification record sheets, and checklists are accurately and effectively created and comply with the provisions of S.C. Code Ann. § 12-6-3378.

#### **24. FIRE SPRINKLER SYSTEM CREDIT**

S.C. Code Ann. § 12-6-3622 provides that a local taxing entity may allow a taxpayer who installs a new or existing fire sprinkler system (as defined in S.C. Code Ann. § 40-10-20) that is not required by law, regulation, or code in a new or existing commercial or residential structure, a

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<sup>1</sup> See example under 20.e above for Port Volume Increase Credit for the mechanics on how to calculate the percentage or total increase over a base year. Please note, the base year and required minimum increase amounts for the 2 credits are different.

property tax credit equal to 25% of the direct expenses, not including any fee charged by the utility, against real property taxes levied by a local taxing entity.

The taxpayer may also claim an income tax credit equal to the amount of the property tax credit allowed by the local taxing entity. The income tax credit is claimed on Form TC-52, "Fire Sprinkler System Credit."

The credit earned by an S corporation owing corporate level tax must first be used at the entity level. Any remaining credit passes to each shareholder based on their percentage of stock ownership. The credit earned by a general partnership, limited partnership, limited liability company, or any other entity taxed as a partnership is allocated among any of its partners, including an allocation of the entire credit to one partner, in a manner agreed by the partners that is consistent with Subchapter K of the Internal Revenue Code. The owner of the structure may transfer, devise, or distribute any unused credit to the tenant of the eligible site. To be effective, the local taxing entity must receive written notification.

See Chapter 4, "Business Property Tax and Exemptions," for a discussion of the property tax credit allowed by a local taxing entity for the installation of a fire sprinkler system and for a discussion of the fire sprinkler system equipment exemption.

## **25. CREDIT FOR CHILD CARE PROGRAMS**

S.C. Code Ann. § 12-6-3440 provides that an employer may claim as a credit against its income tax, bank tax, or insurance premium tax liability an amount equal to (a) 50% of its capital expenditures in South Carolina but no more than \$100,000, for costs incurred in establishing a child care program for its employees' children and (b) 50% of the child care payments made not to exceed \$3,000 for each participating employee per year.

The program and operation of the program must meet the licensing, registration, and certification standards prescribed by law. The credit taken in any one tax year cannot exceed 50% of the employer's tax liability for that year. Any unused credit can be carried forward for 10 years. The credit is claimed on Form TC-9, "Credit for Child Care Program."

For purposes of the capital expenditures portion of the credit, qualifying expenditures for establishing a child care program include, but are not limited to:

1. Mortgage or lease payments for child care facilities.
2. Purchases of playground and classroom equipment, kitchen appliances, and cooking equipment.
3. Purchases of real property and improvements.

4. Donations to a nonprofit organization that qualifies under I.R.C. § 501(c)(3) in order to help that organization establish a child care facility for the employees' children. The employer may not, however, also claim a charitable deduction for the contribution made to the §501(c)(3) organization.
5. Expenses incurred in the first year for organizing and administering a direct payment program (see discussions below) for paying employees' child care expenses.

For purposes of the child care portion of the credit, 50% of the following payments, not to exceed \$3,000 for each participating employee per year, qualify for the credit:

1. Payments incurred by the taxpayer to operate a child care program for the taxpayer's employees in South Carolina.
2. Payments made directly to licensed or registered independent child care facilities in the name of, and for the benefit of, the employer's employees who are residents of, and employed in, South Carolina qualify if the children are kept at the facility during the employee's working hours. In addition, the employer may include any administrative costs, not to exceed 2%, that are associated with payments to a licensed or registered independent childcare facility.

The requirements of the child care payment portion of the credit include:

1. The payment may not exceed the amount charged to non-employee's children of like age and abilities.
2. The taxpayer must retain information concerning the child care facility's federal identification number, license or registration number, payment amount, and in whose name and for whose benefits the payments were made.

## **26. CREDIT FOR STATE CONTRACTORS SUBCONTRACTING WITH SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESSES (FORMERLY MINORITY BUSINESS CREDIT)**

S.C. Code Ann. § 12-6-3350 provides a tax credit to taxpayers having a contract with the state who award a subcontract to a certified South Carolina based socially and economically disadvantaged small business. The credit is equal to 4% of the payments to that subcontractor for work pursuant to the contract. The credit is limited to a maximum of \$50,000 annually. A taxpayer is eligible to claim the credit for 10 consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. There is no carryforward of unused credits.

The subcontractor must be certified as a socially and economically disadvantaged small business, as defined in S.C. Code Ann. § 11-35-5010 and SC Code Ann. Regs. 19-445.2160. A taxpayer claiming the credit must maintain evidence of work performed for the contract by the subcontractor. Any payment made to a the subcontractor prior to the date of certification by the South Carolina Division of Small and Minority Business Contracting and Certification does not qualify for the credit. The credit is claimed on Form TC-2, "Credit for State Contractors Subcontracting with Socially and Economically Disadvantaged Small Business", formerly the "Minority Business Credit."

## **27. QUALITY IMPROVEMENT PROGRAM CREDITS**

S.C. Code Ann. § 12-6-3580 allows income tax credits for fees incurred for quality improvement programs. They are:

1. A credit equal to the annual fee paid to the South Carolina Quality Forum to participate in quality programs.
2. A credit equal to 50% of any fees charged to participate in the organizational performance excellence assessment process.

The credits are limited to the tax liability on the return. There is no carryforward of unused credits. The credits are claimed on Form TC-28, "South Carolina Quality Forum Credit."