

PART C: GENERAL BUSINESS CREDITS AND INFRASTRUCTURE CREDITS

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, for these taxpayers any 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 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. HEADQUARTERS CREDIT

a. General Provisions

S.C. Code Ann. § 12-6-3410 allows a taxpayer a credit against income taxes imposed under S.C. Code Ann. §§ 12-6-510 or 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 or expanding a headquarters in South Carolina, including a headquarters of a business unit of the taxpayer. A “business unit” is an organizational unit of the taxpayer that is defined by the particular product or category of product it sells.

A headquarters is the facility, or portion of a facility, where headquarters staff employees are employed and where the taxpayer’s or a business unit of the taxpayer’s financial, personnel,

legal, planning, information technology, or other headquarters-related functions are handled either on a regional, national, or global basis.

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;¹ and (3) employment and output are significant as to the activity.

The credit is equal to 20% of the real property and tangible personal property costs incurred in constructing and furnishing the headquarters. Any unused credit may be carried forward for 10 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 headquarters of the taxpayer.

To qualify for the headquarters credit, the taxpayer must:

1. incur at least \$50,000 in real property costs for the headquarters;
2. Create at least 40 new full-time jobs performing headquarters-related functions and services and those jobs must have gross wages greater than or equal to twice the per capita income of the State based on the most recent data available as of the date the jobs are filled;² and
3. The employees filling the jobs must be subject to South Carolina withholding and must be provided a benefits package that includes health care.

A remote employee who works for the taxpayer performing headquarters-related functions and services either completely or partially from a home office or other residence in South Carolina may qualify as a full-time employee.

No credit may be claimed for a tax year during which the taxpayer 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 taxpayer requalifies for the credit by re-meeting the employment requirements. The credit is claimed on Form TC-8,

¹ It is irrelevant whether separate reports are actually prepared; so long as separate reports *can be* prepared, this criteria is met.

² The state per capita income figures are received at least annually from the Office of Revenue and Fiscal Affairs. As of December 2024, the most recent data available indicates South Carolina per capita income is \$ 57,332 per year.

“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.

Real property 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. Direct lease costs are cash lease payments and do not include any accrued, but unpaid costs.

Personal property costs are tangible personal property purchased for the establishment, expansion, or addition of the headquarters that is used for headquarters-related functions and services in South Carolina and is capitalized under the Internal Revenue Code for income tax purposes. The credit may not be claimed; however, for personal property which is replacing personal property for which the credit can be claimed.

c. Examples

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

◆ Example 1: Assume a 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 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 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 Department 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. Thus, a partnership was precluded from earning the infrastructure credit.

20. CREDIT AGAINST LICENSE FEE 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 fee 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 19).

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 the latest 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. RAILROAD EXPENDITURES CREDIT

S.C. Ann. §12-6-3820 provides a nonrefundable credit against income taxes, bank taxes, or insurance premium taxes equal to 50% of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures. However, the credit is limited to the lesser of: (1) \$5,000 multiplied by the number of miles of railroad track the taxpayer owns or leases in South Carolina at the end of the tax year, or (2) \$1,500,000. Any unused credit can be carried forward for 5 years from the year of qualification.

To qualify, the taxpayer must be a railroad owner located in this State and classified by the United States Surface Transportation Board as a Class II or Class III railroad. Qualified expenditures are gross expenditures for maintenance, reconstruction, or replacement of railroad infrastructure, including track, roadbed, bridges, industrial leads and sidings, and track-related structures owned by a qualifying railroad.

A taxpayer must submit certain documentation to the Department of Commerce and within 30 days of submission, Commerce will approve or deny the expenditures. Commerce will issue a tax credit certificate in an amount equal to 50% of the amount of qualifying expenditures. At the end of each year, Commerce will provide to the Department of Revenue a list of qualifying taxpayers and the amount of credit authorized for each taxpayer. Tax credit certificates must be attached to a qualifying taxpayer's tax return. Unused credits may be carried forward 5 years.

Note: **This credit will be repealed December 31, 2028**, however, if a credit has been earned before the repeal date, the credit provisions continue to apply until the credit has been fully claimed.

22. 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.

23. 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(I) 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	2024	2025	2026	2027	2028	2029
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, 2026		Submit application after December 31, 2028	Submit application after December 31, 2029

24. 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.³

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 5 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;

³ See example under Section 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.

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.

25. 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 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.

26. 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.

27. 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 the subcontractor prior to the date of certification by the appropriate authority (currently the Commission on Minority Affairs) 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."

28. 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."