

INSTRUCTIONS FOR PREPARING

FORM 500

VIRGINIA CORPORATION INCOME TAX

RETURN FOR 2009



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TAXATION
RICHMOND, VIRGINIA

INSTRUCTIONS FOR PREPARING FORM 500

VIRGINIA CORPORATION INCOME TAX RETURNS FOR 2009

Tenemos servicios disponible en Español

Forms Only –

Department of Taxation
P.O. Box 1115
Richmond, Virginia 23218-1115
Phone: (804) 367-8037
FAX: (804) 254-6111

Department of Taxation
Forms Request Unit
P.O. Box 1317
Richmond, Virginia 23218-1317
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**Live
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WHAT'S NEW

Need Help? The Tax Website has lots of information to help you with your tax filing responsibilities. However, if you still can't find what you're looking for try our Live Chat feature. A Tax Representative is available on-line to assist you.

e-Subscription - Sign up to receive customized e-mails that contain information on the specific tax types and related topics you're interested in, reminders about return due dates and other useful information. Visit www.tax.virginia.gov for additional information about these features.

Other Web Services:

- File Online: You can pay your estimated taxes on-line through iFile.
- Forms Online: Virginia tax forms are available for download.
- Secure E-mail: Use our iFile Secure Message Center.
- Other Inquiries: Call 804-367-8037 or write Department of Taxation, P.O. Box 1115, Richmond, VA 23218-1115.

Advancement of Virginia's Fixed Date Conformity with the Internal Revenue Service

The 2009 General Assembly enacted legislation that moved Virginia's fixed date conformity with the Internal Revenue Code (IRC) from December 31, 2007, to December 31, 2008. At the time these instructions went to print, the only required adjustments for "fixed date conformity" were: (i) the special 30% and 50% bonus depreciation allowance for certain assets under the IRC, and (ii) the 5-year net operating loss (NOL) carryback allowed for net operating losses generated in taxable year 2001 or 2002. If federal legislation is enacted that results in changes to the IRC for the 2009 taxable year, taxpayers may be required to make adjustments to their Virginia returns that are not described in the instruction booklet. Supplemental instructions will be posted on our website at www.tax.virginia.gov. See pages 6 and 7 for additional information.

Minimum Tax on Non-corporate Telecommunications Companies and Electric Suppliers

House Bill 2378 and Senate Bill 946 continue to subject telecommunications Companies to the greater of either the Corporate Income Tax or the Minimum Tax. The same treatment of non-corporate entities continues to apply to the Virginia Minimum Tax on Certain Electric Suppliers. Additionally, the acts clarify that this and other taxes may also be imposed on non-corporate entities.

Captive Real Estate Investment Trusts ("REIT")

House Bill 2504 and Senate Bill 1147 require captive REITs to pay income tax on the business they do in Virginia by adding back any federal deduction for dividends paid to its shareholders. It will then allocate and apportion income, and pay Virginia income tax, in the same manner as other corporations. It will not affect publicly traded REITs, or other widely held REITs in which a single corporate entity does not own 50% or more of the REIT's shares.

Qualifying Dispositions of Real Property

Individual and corporate taxpayers may elect to recognize income from certain dispositions of real property under the installment method for Virginia tax purposes, even though the entire gain is reported as income in the year of the disposition for federal income tax purposes. Qualifying dispositions are those in which the real property is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business. The election must be made on or before the due date of the taxpayer's tax return for the taxable year in which the disposition occurred. TAX has established guidelines that outline the restrictions or conditions associated with qualifying dispositions. These guidelines are available on our website at www.tax.virginia.gov.

Major Business Facility Job Tax Credit

House Bill 2575 extends the sunset date for the authorization of tax credits allowed under the Major Business Facility Job Tax Credit from January 1, 2009, to January 1, 2020. In addition, the act allows the taxpayer to claim the credit amount over two years instead of three. The provision that allows the taxpayer to claim one-half of the credit amount for two years is effective only for credit years whose taxable year begins on or after January 1, 2009, but before December 31, 2010.

Neighborhood Assistance Act Tax Credit

- Veterinarians, Extend Sunset-** Veterinarians' services have been added to the professional services eligible for the tax credit. Also, the sunset date for the authorization of tax credits has been extended from July 1, 2009, to July 1, 2011.
- Education** - The annual cap for tax credits allowed under Neighborhood Assistance Act Tax Credit (NAA) has been increased from \$8 million to \$11.9 million. The funds are allocated as follows: \$4.9 million for approved education proposals; and \$7 million for other qualified NAA programs.

Land Preservation Credit

House Bill 1891 and Senate Bill 986 reduce the amount of Land Preservation Credits that may be claimed from \$100,000 per taxpayer to \$50,000 per taxpayer effective for credits claimed for taxable years beginning on and after January 1, 2009, but before January 1, 2011. See instructions on page 13.

INSTRUCTIONS FOR PREPARING FORM 500
VIRGINIA CORPORATION INCOME TAX RETURNS FOR 2009
(References are to the Code of Virginia, unless otherwise noted)

GENERAL INFORMATION

CORPORATIONS REQUIRED TO FILE

Every corporation organized under the laws of Virginia, every foreign corporation registered with the State Corporation Commission for the privilege of doing business in Virginia, and every corporation having income from Virginia sources must (with the exceptions stated in this instruction) file a return with the **Virginia Department of Taxation, P.O. Box 1500, Richmond, Virginia 23218-1500**, on or before the fifteenth day of the fourth month (fifteenth day of the sixth month for nonprofit corporations) following the close of its taxable year.

Receivers, trustees in dissolution, trustees in bankruptcy, and assignees, operating the property or business of corporations must make returns of income for such corporations. If a receiver has full custody of and control over the business or property of a corporation, he is deemed to be operating such business or property, whether he is carrying on the business for which the corporation was organized or only in marshaling, selling, or disposing of its assets for purposes of liquidation. (Sec. 58.1-441)

Domestic International Sales Corporations (DISC) are taxable under Virginia law and must file Form 500. It is, therefore, necessary for a DISC to report its federal taxable income even though no federal tax is applied.

Foreign Sales Corporations (FSC) and any income attributable to an FSC are exempt under Virginia law; however, it may be necessary for an FSC to file an information return if it meets the provisions of Sec 58.1-441 and the regulations thereunder.

Effective January 1, 2001, any electric supplier, pipeline distribution company, gas utility, or gas supplier that is subject to federal income tax is also subject to the Virginia corporation income tax and should file a Virginia Corporation Return, Form 500.

Beginning on or after January 1, 2004, electric suppliers may be subject to a minimum tax instead of the corporate tax for any taxable year their minimum tax liability is greater than their corporate income tax liability. Schedule 500EL is used to compute the minimum tax and determine which tax applies.

Electric Cooperatives are subject to tax on all modified net income derived from nonmember sales and must file a Form 500EC even if no tax is due. Beginning on or after January 1, 2004, electric cooperatives may be subject to a minimum tax instead of the modified net income tax if their minimum tax liability is greater than their modified net income tax liability.

Beginning on or after January 1, 2009, Captive REITs are required to add back any federal deduction for dividends paid to its shareholders. It will then allocate and apportion income, and pay Virginia income tax, in the same manner as other corporations. A Captive REIT is defined as a REIT (i) whose shares are not publicly traded, (ii) 50% or more of the shares are owned by a corporate entity, and (iii) more than 25% of the income of the REIT consists of rents from real property. Exceptions are provided to ensure that an affiliated group of REITs will not be considered captive REITs unless the ultimate ownership of the group is by a single corporate entity. Entities organized under the laws of Australia and other foreign countries

that are similar to REITs will also not be considered a captive REIT, if they are widely held. This addition is phased in over three years and will be reduced by one-half for Taxable Years 2009 and 2010.

Electing small business corporations, not taxable as corporations under Sec. 58.1-400, are required to file Form 502, for pass-through entities.

EXEMPT CORPORATIONS

Corporations not organized for pecuniary profit, which are also exempt from income tax under Section 501(c) of the IRC, are taxed only on their unrelated business taxable income and must report that unrelated business income on Form 500; otherwise, no returns are required.

Public service corporations which pay a state franchise tax or license tax upon gross receipts, insurance companies which pay a state license tax on gross premiums and reciprocal or inter-insurance exchanges which pay a premium tax to the state are not required to file an income tax return. Additionally, state and national banks, banking associations, trust companies and credit unions organized and conducted as banking institutions are not taxed on their income by Virginia and are not required to file an income tax return. (Sec. 58.1-401.)

PERIOD TO BE COVERED BY RETURN

A corporation's taxable year is the same as its taxable year for federal income tax purposes. If a corporation's taxable year is changed for federal income tax purposes, its taxable year also changes for state income tax purposes. (Sec. 58.1-440.)

ACCOUNTING METHODS

A corporation's method of accounting is the same as its method of accounting for federal income tax purposes. In the absence of any method of accounting for federal income tax purposes, Virginia taxable income shall be computed on the accounting basis regularly used in the corporation's bookkeeping, provided such method in the opinion of the Department of Taxation clearly reflects income. If a corporation's accounting method changes for federal income tax purposes, it also changes for state income tax purposes. (Sec. 58.1-440.)

APPORTIONMENT

Double-Weighted Sales Factor. A double-weighted sales factor is used for corporate apportionment. Under this formula, the sales factor is weighted 50% and payroll and property as 25% each in determining the overall corporate income apportionment factor. See the instructions for Schedule 500A for details on how to compute apportionable income factors.

WHERE AND WHEN TO FILE

Every corporation income tax return must be filed with the **Virginia Department of Taxation, P.O. Box 1500, Richmond, Virginia 23218-1500**, on or before the 15th day of the fourth month (15th day of the sixth month for nonprofit corporations) following the close of a corporation's taxable year. (Sec. 58.1-441.)

EXTENSION OF TIME, FORM 500CP

For taxable years beginning on and after January 1, 2005, an automatic extension of time to file is granted to the date six months after such due date or 30 days after the extended date for filing the federal income tax return, whichever is later.

If Form 500 is filed within the automatic extension period, but less than 90% of the tax liability was paid by the original due date, an extension penalty will apply. The extension penalty is imposed at the rate of 2% per month or part of a month on the balance of the tax due with the return from the original due date through the date of filing to a maximum of 12%. If an additional tax payment is needed to ensure the tax liability has been paid, use Form 500CP to remit the payment. You may also submit an EFT payment or use ifile at www.tax.virginia.gov. Electric cooperatives are required to make sufficient payments based on their estimated modified net income tax liability. **If the return is filed after the extended due date, a 30% late filing penalty will apply on the balance of tax due with the return. The minimum penalty for failure to file timely is \$100.**

If any amount of the tax is underestimated, interest accrues at the underpayment rate set in Sec. 6621, IRS Code, plus 2%.

ELECTRONIC FUNDS TRANSFER (EFT)

Businesses with an average monthly liability exceeding \$20,000 are required by law to pay their taxes by EFT. This requirement applies separately for corporate income tax, retail sales and use tax, and withholding tax. Taxpayers that are identified as mandatory EFT filers will be notified by first class mail to begin making tax payments by EFT. Payments required to be made by EFT that are submitted by check are subject to late payment penalties. Taxpayers who do not have an average monthly tax liability of \$20,000 may voluntarily choose to pay any of these three types of taxes by EFT. For more information, obtain an EFT Guide by visiting our website at www.tax.virginia.gov or call our Forms Request Unit at (804) 440-2541.

COMPUTER GENERATED/PREPARED FORMS

A corporation may elect to file its Virginia Corporation Income Tax return on Department-approved computer-generated forms.

PAYMENT OF TAX

Unless payment is made through our website or by EFT, a check or money order covering the unpaid balance of the tax must be attached to the return along with Form 500V. Checks or money orders should be made payable to the Virginia Department of Taxation. (Sec. 58.1-455.) Payments returned by the bank will be subject to a returned payment fee in addition to any other penalties that may be incurred.

PENALTIES AND INTEREST

If the return is filed within the six month extension, but the corporation failed to pay 90% of the tax due by the original due date, then the corporation is subject to an extension penalty of 2% per month or fraction of a month. The penalty is applied to the balance of tax due with the return from the original due date through the date of filing. The maximum extension penalty is 12% of the tax due. If the return is filed after the extended due date, the extension provisions do not apply and the corporation is subject to the late filing penalty (Sec. 58.1-455). In no case, however, will the penalty for failure to file timely be less than \$100, and this minimum \$100 penalty applies whether or not tax is due for the period covered by the return. If Form 500 is filed within the extension period and full payment is not included with the return, the late payment penalty will be assessed at the rate of 6 percent per month from the date of filing through the date of

payment, to a maximum of 30 percent of the tax due. Civil and criminal penalties may be imposed for filing a fraudulent return. Effective July 1, 2003, the criminal penalty for filing a fraudulent return changed from a Class 1 misdemeanor to a Class 6 felony. (Sec. 58.1-451 and 58.1-452.) Interest on the unpaid balance of any tax and penalty is charged at the underpayment rate established by Sec. 6621 of the IRC, plus 2%, from the due date until paid.

SIGNATURE AND VERIFICATION

The return must be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer, or other officer duly authorized to act. If an accountant who is not a full-time officer or employee of the corporation prepared the return, or assisted in its preparation, give the name and address of the accountant. (Sec. 58.1-447.)

RETURN FORMS AND SCHEDULES

Form 500 - Corporation Income Tax Return. Used to compute a Corporation's income tax liability and to determine the amount of tax due or refund.

Schedule 500ADJ - Schedule of Adjustments. Used to report additions to or to claim subtractions from Federal Taxable Income and to claim withholding reported to a Corporation by a Pass-Through Entity on Virginia Schedule VK-1.

Schedule 500CR - Schedule of Credits. Used to claim both nonrefundable and refundable credits.

Schedule 500FED - Schedule of Federal Line Items. Used to report specific line items from the Corporation's federal income tax return.

Schedule 500A - Multistate Corporation. Used to allocate and apportion income by Corporations that transact or conduct part of business within Virginia and part of business outside Virginia.

Schedule 500AB - Schedule of Related Entity Add Backs and Exceptions. Used to: (i) add back certain deductions that may be taken by a corporation on its federal return for interest, royalties, and other expenses related to intangible property such as trademarks and patents; (ii) to report payments; and (iii) to identify exceptions.

Schedule 500AC - Schedule of Affiliated Corporations. Corporations filing as Combined or Consolidated are required to provide a list of their affiliates doing business in Virginia, or with Virginia source income, that are part of the group included in this tax return.

Form 500C - Underpayment of Estimated Tax. Used to determine if an addition to tax charge is owed for failure by the Corporation to pay sufficient estimated tax during the taxable year.

Form 500T - Telecommunication Companies Minimum Tax. Every telecommunications company as defined by statute and certified by the State Corporation Commission must complete and submit Form 500T.

Schedule 500EL - Electric Suppliers Corporation Minimum Tax and Credit Schedule. Every electric supplier as defined by statute and certified by the State Corporation Commission must complete and submit Schedule 500EL.

ASSEMBLE YOUR RETURN - Place the forms and schedules, as applicable, in the order shown above. Attach Form 500V with payment to your return, unless payment is being submitted electronically. To avoid processing problems and delays, always attach all forms

and schedules used to prepare the return along with any other required documentation or attachments including a copy of the Corporation's federal return.

ATTACH COPY OF THE FEDERAL RETURN: A copy of the Corporation's federal income tax return, as filed with the Internal Revenue Service, must be attached to the Virginia income tax return. Corporations included in a consolidated federal return must file a copy of the consolidated federal return. (Sec. 58.1-441.) If the federal return is so voluminous that it is impractical to file a complete copy with the Virginia return, the complete federal return must be made available to the Department upon request.

NONPROFIT HOSPITALS

Nonprofit hospitals are required to provide the Department of Taxation a copy of the hospital's federal 990 or 990-EZ tax form (or the successor form to such form) that was filed with the Internal Revenue Service for the relevant year. A copy of the form shall be provided to the Department within 30 days following the filing of the federal 990 or 990-EZ tax form with the Internal Revenue Service. In addition, such hospital shall provide the Department a copy of any interim tax form, report, or return that the hospital filed with or provided to the Internal Revenue Service for the relevant year pursuant to Title 26 of the United States Code or the rules and regulations thereunder. The copy of the interim tax form, report, or return shall be provided to the Department within 30 days following the filing of the same with, or the providing of the same to, the Internal Revenue Service.

CONSOLIDATED OR COMBINED RETURNS

If one corporation owns 80 percent or more of the outstanding voting stock of another or others, or if 80 percent or more of the outstanding voting stock of two or more corporations is owned by the same interest, a consolidated or a combined return may be filed by those corporations that are subject to Virginia income taxes. Returns filed on a consolidated or combined basis must include a completed Schedule of Affiliated Corporations, Schedule 500AC.

If a corporation elects to file on either a separate, consolidated, or combined basis, all returns thereafter must be filed on the same basis, unless the Department of Taxation grants permission to change. (Sec. 58.1-442.) A binding election is made in the first year in which a group of affiliated corporations is eligible to file a consolidated or combined return in Virginia. *Prior elections continue in effect and can be changed only with permission granted by the Virginia Department of Taxation.*

If a group of affiliated corporations has previously elected to file separate returns or a combined return for two or more members, then permission to file a consolidated return will generally be denied unless the group: (1) files a consolidated federal return, and (2) includes corporations that are required for Virginia purposes to use different apportionment factors. Any request to switch from one filing method to another must be submitted on or before the due date for the first return to use the requested filing method.

For purposes of Sec. 58.1-442:

- (1) a consolidated return means a single return for a group of corporations affiliated within the meaning of Sec. 58.1-302, prepared in accordance with the principles of Sec. 1502 of the IRC and regulations thereunder;
- (2) a combined return means a single return for a group of corporations affiliated within the meaning of Sec. 58.1-302, in which income or loss is separately determined in accordance with the following:
 - a. Virginia taxable income or loss is computed separately

for each corporation;

- b. allocable income is allocated to the state of commercial domicile separately for each corporation;
- c. apportionable income or loss is computed utilizing separate apportionment factors for each corporation; and
- d. income or loss computed in accordance with a. through c. above is combined and reported on a single return for the affiliated group.

All supplementary and supporting schedules filed with a consolidated or combined return should be prepared in columnar form, one column being provided for each corporation included in the consolidated or combined return. Supporting schedules for consolidated returns should also include a column for totals of like items before adjustments are made, a column for intercompany eliminations and adjustments, and a column for totals of like items after giving effect to the eliminations and adjustments. The items included in the columns for eliminations should be symbolized to readily identify contra items affected, and suitable explanations should be added if necessary.

Prohibition of worldwide consolidation or combination. The Virginia Department of Taxation shall not require, and no corporation may elect, that a consolidation or combination of an affiliated group include any controlled foreign corporation, the income of which is derived from sources outside the United States. (Sec. 58.1-443.)

Effective for applications filed with the Department on or after July 1, 2003, a group of affiliated corporations that has filed Virginia income tax returns on the same basis for at least the preceding 20 years will be granted permission to change the basis of the type of return filed from consolidated to separate or from separate or combined to consolidated if: (1) the tax computed under the affiliated group's requested return basis would be equal to or greater than the tax for the full taxable year immediately preceding the taxable year for which the requested return basis would be applicable; and (2) the affiliated group agrees to compute its tax liability under both the requested return basis and the elected return basis and pay the greater of the two amounts for the taxable year in which the requested return basis is effective and for the immediately succeeding taxable year.

IN-STATE CORPORATIONS

If the entire business of the corporation is transacted or conducted within Virginia, the tax is computed upon the entire Virginia taxable income of the corporation for each taxable year. The entire business of the corporation will be considered to have been transacted or conducted within this state if the corporation is not subject to a net income tax, a franchise tax measured by net income or a franchise tax for the privilege of doing business in another state. (Sec. 58.1-405.)

MULTISTATE CORPORATIONS

A corporation having income from business activity that is taxable both within and without Virginia must allocate and apportion its net income as provided in Sec. 58.1-406 through 58.1-421. Such a corporation must complete and attach to the return Schedule 500A. A corporation is not taxable in another state if that state is prohibited from imposing an income tax on the corporation because its business activity in the state does not exceed the minimum standards set forth in Public Law 86-272. (15 U.S.C.A. Sec. 381 - 384.)

REPORT OF CHANGE IN FEDERAL TAXABLE INCOME

If the amount of a corporation's federal taxable income as reported on its federal income tax return for any taxable year is changed or corrected by the IRS (or other competent authority), or is changed as the result of a renegotiation of a contract or subcontract with the United States, the taxpayer must report this change to the Virginia Department of Taxation within one year. Any taxpayer filing an amended federal return must also file an amended state return and must pay any additional tax and interest due, if applicable.

REFUND OF VIRGINIA TAX

A corporation may file an amended return to claim a refund within the later of:

- (1) three years from the due date of the return or extended due date (whichever is later);
- (2) one year from the final determination of any change or correction in the liability of the taxpayer for any federal tax upon which the state tax is based, provided that the refund does not exceed the amount of the decrease in Virginia tax attributable to such federal change or correction;
- (3) two years from the filing of an amended Virginia return resulting in the payment of additional tax, provided that the amended return raises issues relating only to the prior amended return and the refund does not exceed the amount of the tax payment made with the prior amended return; or
- (4) two years from the payment of an assessment, provided the amended return raises issues relating only to the prior assessment and the refund does not exceed the amount of tax paid on the prior assessment.

Attach a copy of federal Forms 1120-X, 1139, the Revenue Agent's Report, Statement of Adjustment to Your Account or other form or statement showing the nature of any federal change and the date that it became final. For an Electric Cooperative subject to the modified net income tax, an amended return may be filed on Form 500EC.

NET OPERATING LOSS DEDUCTIONS

Note: With Fixed Date Conformity, Virginia Code references conform to the IRC as it existed on December 31, 2008. Thus, federal changes effective after December 31, 2008, will require modifications for Virginia purposes. For tax years 2001 and 2002, a taxpayer may carryback a net operating loss 5 years for federal purposes, however, the loss can only be carried back 2 years for Virginia purposes unless an exception was allowed under federal law. Consequently, to the extent federal and Virginia net operating loss carrybacks and carryforwards differ, separate accounting will be required. For example: If the federal loss is carried back 5 years, there will be no adjustment to Virginia returns for the 5th, 4th and 3rd carryback years. The federal loss can be carried back two years for Virginia purposes and separate tax records must be maintained to reconcile the differences. Beginning in 2003, the carryback period for net operating losses is the same for federal and Virginia (2 years). An adjustment still may be necessary depending on differences between the 5 and 2 year carrybacks for 2001 and 2002. There is no Virginia net operating loss, as such, available for carryback or carryover. However, since the starting point (Line 1, Form 500) is federal taxable income, there is statutory provision for net operating loss deductions to the extent that such losses are included in federal taxable income. Since federal income must be modified for Virginia additions and subtractions, the additions

and subtractions of the loss year follow the federal loss to the year the loss is utilized. Thus, if the federal net operating loss is fully utilized in a carryback or carryover year, the net amount of additions and subtractions will be applied in the same ratio to the applicable year. The federal net operating loss deduction may be used only to reduce federal taxable income, and a federal net operating loss deduction cannot create or increase a federal operating loss.

For a copy of the Virginia regulations, visit www.tax.virginia.gov. For more information, call 804-367-8037 or write to Department of Taxation, P.O. Box 1115, Richmond, VA 23218-1115. Tenemos servicios disponibles en Español.

ESTIMATED INCOME TAX

You can file and pay estimated income tax electronically. Visit www.tax.virginia.gov and click on Payment Options. If a corporation filed estimated tax last year, then personalized vouchers will be mailed to you unless you are required to pay by EFT. If by February 14, 2010, you have not received your vouchers, you may print your own vouchers using third-party software or obtain nonpersonalized vouchers by visiting www.tax.virginia.gov. To have forms mailed to you, call the Virginia Department of Taxation, Forms Request Unit, at 804-440-2541. It is not necessary to file Form 500ES if estimated tax payments are made by EFT.

In case of any underpayment of estimated tax by a corporation, Sec. 58.1-504 requires that an addition to tax be made at the established interest rate for underpayments unless one of the exceptions in that section applies. Use **Form 500C** to compute this addition to the tax and/or to indicate that an exception applies.

Calendar Year Filers

Every corporation subject to Virginia income tax whose accounting period is a calendar year, is required to make a declaration of estimated tax for the calendar year if its Virginia income tax for that period can reasonably be expected to exceed \$1,000. Payment of the estimated tax must be made to the Department of Taxation as follows: 25% by April 15, 25% by June 15, 25% by September 15, and 25% by December 15.

Fiscal Year Filers

If a corporation's accounting period is a fiscal year, the corporation is required to make a declaration of estimated income tax and pay 25% of the amount due to the Department of Taxation by the fifteenth day of the 4th month following the beginning of its fiscal year. Subsequent installments will be payable by the 15th day of the 6th month, the 15th day of the 9th month, and the 15th day of the 12th month following the beginning of its fiscal year. (Sec. 58.1-500 - 58.1-504.)

VIRGINIA TAXABLE INCOME

Virginia taxable income for a taxable year means the federal taxable income for such year of a corporation (or the "investment company taxable income" of regulated investment companies, or the "real estate investment trust taxable income" of real estate investment trusts, to which shall be added in each case any amount of capital gains taxable to the corporation under federal law) or the unrelated business taxable income of organizations exempt from income tax under Sec. 501(c) of the IRC, adjusted as provided under Sec. 58.1-402; except a corporation subject to the provisions of Sec. 58.1-403.

FORM 500 INSTRUCTIONS

Fiscal Year Filers or Short Year Filers: Complete this line only if your taxable year is not from January 1 to December 31. You must use the same taxable period on your Virginia return as on your federal return.

Check if:

- Initial Filer - first time filing in Virginia
- Name Change - name has changed since your last filing
- Change in Mailing Address - mailing address has changed since your last filing, and
- Change in Physical Address - physical address has changed since your last filing

Be sure that your federal employer identification number, name, mailing address and physical address are correctly reported. Enter the date and state or country of incorporation.

Entity Type Enter the entity type code from the list below:

- CC - C-Corp
- SC - S-Corporation (Electrical Suppliers and Telecommunication Companies)
- LL - Limited Liability Company
- NZ - Non-Profit Organization
- NP - Non-Profit Corporation
- BA - Bank
- SL - Savings and Loan
- CO - Cooperative
- PS - Public Service
- OB - Other Business
- UB - Unknown Business
- LP - Limited Liability Partnership
- PG - General Partnership
- PL - Limited Partnership

NAICS Code: Enter the 6 digit North American Industry Classification System (NAICS) code. You can download a list of these codes from the Business Registration Forms Section on our website, www.tax.virginia.gov.

Check Applicable Boxes to indicate any of the following:

- Schedule 500A Multistate Schedule is attached
- Schedule 500AC Consolidated Schedule is attached
- Schedule 500AC Combined Schedule is attached
- Change in Filing Status from last return
- Schedule 500AB is attached

Final Return - If this is the final return, check the applicable boxes and provide the requested information.

Telecommunications Company - Complete Form 500T and enter the amount from Form 500T, line 7. Noncorporate Telecommunications Companies, please check the box and enter amount from Form 500T, Line 10.

Electric Supplier Company - Complete Schedule 500EL and enter the amount from Schedule 500EL, line 7 or 14.

Amended Return - Check the amended box if this is an amended return. Also, check other applicable boxes to indicate the reason for filing the amended return. Complete Form 500, Schedule 500ADJ, and all other applicable forms and schedules. You must also provide an explanation of changes to income and modifications.

Note: Do not file Form 500 to carryback a net operating loss. Use Form 500NOLD, Corporation Application For Refund Carryback of Net Operation Loss.

Questions and Related Information - Complete questions A - F.

LINE INSTRUCTIONS

Line 1 Federal Taxable Income

Enter taxable income after net operating loss deductions and special deductions for dividends as it appears on the federal income tax return filed with the Internal Revenue Service. Line 1 may not be less than zero except to report a net operating loss in the current year. Any corporation that is included in a consolidated return for federal income tax purposes, but files separate or combined Virginia returns or files a consolidated Virginia return with fewer than all of the members included in the federal return, must include with the Virginia return, schedules and statements necessary to reconcile actual consolidated federal taxable income to the federal taxable income reported on the Virginia return.

Line 2 Total Additions from Schedule 500ADJ

Enter the total additions reported on Schedule 500ADJ, Section A.

Line 3 Total: add line 1 and line 2

Line 4 Total Subtractions from Schedule 500ADJ

Enter the total subtractions reported on Schedule 500ADJ, Section B.

Line 5 Balance Subtract line 4 from line 3.

Line 6 Savings and Loan Bad Debt Deduction

If a Savings and Loan Association used the percentage of income method to compute its federal deduction for bad debts, then it must add the federal bad debt deduction and recompute the bad debt deduction for Virginia purposes by multiplying the amount on line 5 by 40%. If the Savings and Loan Association used the percentage of loans method or the experience method, enter the amount claimed for addition code 13 on Schedule 500ADJ. (Sec. 58.1-403.)

Line 7 Virginia Taxable Income

Subtract line 6 from line 5. This is your Virginia taxable income if the entire business of the corporation is transacted or conducted within Virginia. Corporations other than multistate corporations, skip to line 9.

Line 8 Multistate Corporations Only

Multistate Corporations with no Virginia income must enter zeroes in 8(a) and 8(b). Otherwise, follow the instructions for lines 8(a) through 8(d) below.

Line 8(a) Income Subject to Virginia Tax

A corporation with income from business activity that is taxable both within and without Virginia should enter its multistate income subject to Virginia tax from Schedule 500A, line 16.

Line 8 (b) Apportionment Factor

Enter apportionment factor from the appropriate line from Schedule 500A, line 2, 3, 4, 5 or 10.

Line 8 (c) and 8 (d) Nonapportionable Investment

Nonapportionable Investment Function Net Income and Loss (applicable only to multistate corporations):

Virginia law does not provide for an addition or subtraction of this income, nor does the law provide for the allocation of any income other than dividends. Lines 8(c) and 8(d) on the Form 500 recognize that some taxpayers may be entitled to an alternative method of allocation and apportionment if they can demonstrate that the application of Virginia's apportionment law to their particular facts for the taxable

year would be contrary to the principles set forth in *Allied Signal, Inc. v. Director, Division of Taxation*, 112 S. Ct. 2251 (1992).

In *Allied Signal, Inc.*, the Court reaffirmed the continued validity of apportionment of any income received directly by the taxpayer, including investment income such as capital gains, unless the capital transaction serves an investment function that is completely unrelated to any operational activities carried on in the state. The Court also reinforced the principle that investment income may be included in apportionable income if there is a unitary relationship between the taxpayer and the entity in which the taxpayer has invested. However, the Court made it clear that the absence of a unitary relationship does not necessarily preclude apportionment.

These adjustments are only available to those multistate corporations that file a Virginia Schedule 500A to apportion and allocate their income, and provide clear and cogent evidence that the asset producing the income serves an investment function that is unrelated to operational functions. The denominator of the relevant apportionment factors shall also be adjusted to exclude items related to the investment assets.

Any taxpayer who qualifies for an alternative method of allocation and apportionment for this type of income is required to add back any loss included in federal taxable income that is attributable to the acquisition, ownership, management, stewardship, sale or exchange of investment assets that are unrelated to the taxpayer's operational function on line 8(d). If the taxpayer has previously claimed a subtraction for nonapportionable investment function income with respect to any investment assets, the addition is required for any subsequent losses generated by such assets.

Burden of Proof: as a prerequisite to the ability to claim an adjustment on lines 8(c) and 8(d) (which effectively allocates income other than dividends) the taxpayer must be able to demonstrate that the application of Virginia law to their particular facts will be unconstitutional. The burden is on the taxpayer to provide clear and cogent evidence that the capital investment was completely separate from its operations, and that the taxpayer's investment function was located outside of Virginia. The taxpayer must also demonstrate that the classification of the capital asset and its income for Virginia purposes is consistent with the manner in which the income has been allocated and apportioned with other state tax authorities. The taxpayer will be under a particularly heavy burden of proof in cases where the asset was clearly operational at any time. Objective evidence is required; an unsubstantiated statement as to the taxpayer's intent, purpose or state of mind will be insufficient to meet the burden.

Taxpayers claiming an adjustment for nonapportionable income on 2009 corporate tax returns must attach a statement to the return stating the nature of the adjustment and the basis for the position that relief is provided under the Constitution. Supplemental evidence should be clearly referenced and included with the return. The taxpayer should submit all evidence considered necessary to support the taxpayer's position. For additional information, see Virginia Tax Bulletin 93-4 (4/6/93).

Line 9 Tax

Multiply the income (line 7 or line 8(a) whichever is applicable) by 6%.

Line 10 Nonrefundable Tax Credits

Enter the total nonrefundable credit amount from Schedule 500CR, Part XXI, line 91.

Line 11 Adjusted Corporate Tax

Subtract line 10 from line 9. Telecommunication Companies should refer to Form 500T. Electric Supplier Companies should refer to Schedule 500EL.

Line 12 Estimated Income Tax Credits and Overpayment Credit

Enter the total amount paid as estimated income tax. Include the amount of overpayment for the taxable year 2008, elected as a credit against 2009 estimated tax.

Line 13 Extension Payments

Enter the amount of any extension payments.

Line 14 Refundable Coalfield Employment Enhancement Tax Credit

- Enter the amount from Schedule 500CR, Part XXII, line 99.

Line 15 Pass-Through Entity Withholding from Schedule 500ADJ

- Enter the amount of Virginia income tax withheld shown on page 2 of Schedule 500ADJ.

Line 16 Total Payments and Credits

- add lines 12 - 15

Line 17 Tax Owed

If line 11 is greater than line 16, subtract line 16 from line 11.

Line 18 Penalty for Return Filed After the Original Due Date

- (a) If filed within the extended period and the balance of tax due exceeds 10% of the actual tax liability (line 9), enter 2% per month or fraction thereof of the balance (line 17); or
- (b) If filed after the extended due date, enter 30% of line 17 or \$100, whichever is greater.

Line 19 Interest

Enter the amount due at the underpayment rate established by Section 6621 of the IRC, plus 2%, from the due date of the return until payment. This underpayment rate is subject to quarterly adjustment. When penalty is entered under 18 (a) above, interest is added from the due date to the date of payment.

Line 20 Additional Charge

Enter the amount from line 17, Form 500C. Attach Form 500C.

Line 21 Total Due

Enter the total of lines 17, 18, 19 and 20. This is the total amount due and must be paid when the return is filed. Attach Form 500V with payment due, unless the payment is submitted electronically.

Line 22 Overpayment

If line 16 is greater than line 11, subtract line 11 from line 16.

Line 23 Amount to be Credited to 2010

Enter the amount of overpayment you want credited to your 2010 estimated tax, if any.

Line 24 Amount to be Refunded

Subtract line 23 from line 22 and enter the amount to be refunded.

INSTRUCTIONS FOR SCHEDULE 500ADJ

Section A - Additions to Federal Taxable Income

Line 1 Fixed Date Conformity – Depreciation.

Enter the amount that should be added to Federal Taxable Income based upon the recomputation of allowable depreciation. If depreciation was included in the computation of your Federal Taxable Income and one or

more of the depreciable assets received the special 30% or 50% bonus depreciation deduction for federal purposes in any year from 2001 through 2009 inclusive, then depreciation must be recomputed for Virginia purposes as if such assets did not receive the special 30% or 50% bonus depreciation deduction for federal purposes in any year from 2001 through 2009 inclusive. If the total 2009 Virginia depreciation is less than 2009 federal depreciation, then the difference must be recognized as an addition on Line 1. For further instructions, see Virginia Tax Bulletins 02-3, 03-1, 04-02, 05-1, 06-01, 07-01 and 08-01 at www.tax.virginia.gov or call (804) 367-8037.

Line 2 Fixed Date Conformity — Other.

Disposed Asset – If an asset was disposed of in 2009 and such asset received the special 30% or 50% bonus depreciation deduction for federal purposes in any year from 2001 through 2009 inclusive, and a gain or loss was recognized for federal purposes, then the gain or loss must be recomputed as if such asset did not receive the special 30% or 50% bonus depreciation deduction for federal purposes in any year from 2001 through 2009 inclusive. The adjustment will be the difference in the federal and Virginia basis of the asset when sold. If the federal basis of the asset is greater than the Virginia basis, (resulting in a lower gain reported for federal purposes), then the difference between the bases is an addition on the Virginia return. For further instructions, see Virginia Tax Bulletins 02-3, 03-01, 04-02, 05-1, 06-01, 07-01 and 08-01 which are available on the Department’s website: www.tax.virginia.gov or call (804) 367-8037.

Other changes not listed – Please refer to the Supplemental Fixed Date Conformity Instructions on the Department’s website, www.tax.virginia.gov for information on any other additions due to federal tax legislation passed after the printing deadline for these instructions. The Department’s website will also reflect any action by Virginia’s General Assembly to advance the date of conformity to the IRC that may take place before the due date for your return. Enter any amounts described in the Supplemental Fixed Date Conformity Instructions. Also, please attach a schedule and explanation of such additions.

Line 3 Enter the amount on line 10, Schedule 500AB, as the taxable amount of payments to a related entity in connection with trademarks, patents and similar intangible property. Attach Schedule 500AB.

Line 4 Net income taxes and other taxes, including franchise and excise taxes, which are based on, measured by, or computed with reference to net income, imposed by this state or any other taxing jurisdiction to the extent deducted in determining Federal taxable income. (Sec. 58.1-402 B.4.)

Line 5 Interest, less related expenses to the extent not deducted in determining federal taxable income, on obligations of any state other than Virginia or of a political subdivision of any such other state unless created by compact or agreement to which this state is a party. (Sec. 58.1-402 B.1.)

Line 6 Other Additions to Federal Taxable Income.

On lines 6a - 6c, enter the two-digit code, listed below, in the boxes followed by the amount of the addition. If you have more than 3 additions, enter “00” and the amount of the total other additions in the first box and attach an explanation of each other addition claimed, including the applicable code.

Code

01 A gas supplier, pipeline distribution company or gas utility shall add to federal taxable income any amount that was deducted in determining taxable income as a

net operating loss carryover from any taxable year beginning on or before December 31, 2000. (Sec. 58.1-403(8).)

02 A gas supplier, pipeline distribution company or gas utility shall add to federal taxable income any amount that was actually deducted in determining taxable income as a net operating loss carryover or net capital loss carryover which would have been an allowable deduction as a net operating or net capital loss carryover in computing taxable income for a year beginning after December 31, 2000, except that such loss had been carried back for a taxable year beginning prior to January 1, 2001. (Sec 58.1-403 (9).)

03 Unrelated business taxable income as defined by Section 512 of the IRC (to the extent excluded from line 1, Form 500).

04 The amount of employee stock ownership credit carryover deducted by the corporation in computing federal taxable income under Section 404(i) of the IRC.

05 The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution under Section 667 of the IRC.

10 Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes. (Sec. 58.1-402 B.2.)

13 The deduction for bad debts allowed in computing federal taxable income for a state or federal savings and loan association. (Sec. 58.1-403 1.)

14 Enter one-half of the amount of dividends deductible under §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT).

15 This code is reserved in the event that the General Assembly does not conform to all of the federal tax Acts passed in 2009. Please refer to the Department of Taxation’s website for the latest information.

99 Other - Enter the amount of any other income not included in federal taxable income, which is taxable in Virginia. Attach an explanation of the addition.

Line 7 Total Additions

Enter the total of lines 1 - 5 and 6a - 6c here and on Form 500, line 2.

Section B Subtractions from Federal Taxable Income

Enter the amount by which any of the following changes increased your federal taxable income.

Line 1 Fixed Date Conformity Depreciation.

Enter the amount that should be subtracted from Federal Taxable Income based upon the recomputation of allowable depreciation. If depreciation was included in the computation of your Federal Taxable Income and one or more of the depreciable assets received the special 30% or 50% bonus depreciation deduction for federal purposes in any year from 2001 through 2009 inclusive, then depreciation must be recomputed for Virginia purposes as if such assets did not receive the special 30% or 50% bonus depreciation deduction for federal purposes in any year from 2001 through

2009 inclusive. If the total 2009 Virginia depreciation is more than 2009 federal depreciation, then the difference must be recognized as a subtraction on Line 1. For further instructions, see Virginia Tax Bulletin 02-3, 03-01, 04-2, 05-1, 06-01, 07-01 and 08-01 at www.tax.virginia.gov or call (804) 367-8037.

Line 2 Fixed Date Conformity — Other.

Disposed Asset - If an asset was disposed of in 2009 and such asset received the special 30% or 50% bonus depreciation deduction for federal purposes in any of the years 2001 through 2009, and a gain or loss was recognized for federal purposes, then the gain or loss must be recomputed as if such asset did not receive the special 30% or 50% bonus depreciation deduction for federal purposes in any of years 2001 through 2009. The adjustment will be the difference in the federal and Virginia basis of the asset when sold. If the federal basis of the asset is lower than the Virginia basis, (resulting in a greater gain for federal purposes) then the difference between the two bases is included as a subtraction on the Virginia return. For further instructions, see Virginia Tax Bulletins 02-3, 03-01, 04-2, 05-1, 06-01, 07-01, 08-01 and 09-01 which are available on the Department's website: www.tax.virginia.gov or call (804) 367-8037.

Other changes not listed—Please refer to the Supplemental Fixed Date Conformity Instructions on the Department's website, www.tax.virginia.gov for information on any other subtractions due to federal tax legislation passed after the printing deadline for these instructions. The Department's website will also reflect any action by Virginia's General Assembly to advance the date of conformity to the IRC that may take place before the due date for your return. Enter any amounts described in the Supplemental Fixed Date Conformity Instructions. Also, please attach a schedule and explanation of such subtractions.

Line 3 Enter the amount of income (interest, dividends and gain) derived from obligations or the sale or exchange of obligations of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent included in federal taxable income but exempt from state income taxes under the laws of the United States. This includes, but is not limited to, stocks, bonds, treasury bills and treasury notes. It does not include interest on refunds of federal taxes, equipment purchase contracts or normal business transactions. (Sec. 58.1-402 C.1.)

Line 4 Any amounts included under the provisions of Section 78 of the IRC (Sec. 58.1-402 C.5.)

Line 5 The amount of any refund or credit for overpayment of income taxes imposed by this state or any other taxing jurisdiction. (Sec. 58.1-402 C.4.)

Line 6 Any amount included therein by the operation of Section 951 of the IRC (subpart F income). (Sec. 58.1-402 C.7.)

Line 7 Any amount included in federal taxable income which is foreign source income and defined as follows:

1. Interest other than interest derived from sources within the United States;
2. Dividends other than dividends derived from sources within the United States;
3. Rents, royalties, license, and technical fees from property located or services performed without the United States or from any interest in such property, including rents, royalties, or fees for the use of or the privilege of using without the United States any patents, copyrights, secret processes and formulas, goodwill, trademarks, trade

brands, franchises, and other like properties; and

4. Gains, profits, or other income from the sale of intangible or real property located without the United States.

Line 8 The amount of any dividends received from corporations in which the taxpaying corporation owns fifty percent or more of the voting stock, to the extent included in federal taxable income and to the extent not otherwise subtracted from federal taxable income. (Sec. 58.1-402 C.10.)

Line 9 Other Subtractions from Federal Taxable Income. On lines 9a - 9c, enter the two-digit code, listed below, in the boxes followed by the amount of the subtraction. If you have more than 3 subtractions, enter "00" and the amount of the total other subtractions in the first box and attach an explanation of each other subtraction claimed, including the applicable code.

Code

- 47** The amount of indemnification payments received by contract poultry growers and table egg producers from the U.S. Department of Agriculture as a result of the depopulation of poultry flocks because of low pathogenic avian influenza in 2002. In no event shall indemnification payments made to owners of poultry who contract with poultry growers qualify for this subtraction. (Sec. 58.1-402 C.19.)
- 50** The amount of wages and salaries eligible for the Federal Work Opportunity Tax Credit which are not deducted for federal tax purposes. (Sec. 58.1-402 C.6.)
- 51** The dividends of a Domestic International Sales Corporation, fifty percent or more of the income of which was assessable for the preceding year, or the last year, in which such corporation has income under the provision of the income tax laws of this state. (Sec. 58.1-402 C.3.)
- 52** The amount of income received as a result of payments made under the Tobacco Master Settlement Agreement, the National Tobacco Grower Settlement Trust and the Tobacco Loss Assistance Program. (Sec. 58.1-402 C.18.)
- 53** The amount of gain from the sale or exchange of land or an easement when such property is devoted to open-space use. To the extent a subtraction is taken under this section, no tax credit for donating land for its preservation shall be allowed for three years following the year in which the subtraction is claimed. (Sec 58.1-402 C.16.)
- 54** The amount contributed to the Virginia Public School Construction Grants Program and Fund that has not been claimed as a deduction on the corporation's federal income tax return. (58.1-402 C.15.)
- 55** There shall be subtracted from federal taxable income, by a gas supplier, pipeline distribution company or gas utility company, the amount that could have been deducted as a net operating loss carryover or net capital loss in arriving at taxable income except that such loss or portion thereof had been carried back for federal purposes. (Sec. 58.1-403 9.)

56 A subtraction for gas suppliers, pipeline distribution companies, gas utility companies, and electric suppliers, except cooperatives, for the amortization of the Virginia tax basis of assets that are recoverable for financial accounting and/or income tax purposes placed in service prior to the first day of the tax year the company became subject to Virginia corporate income tax (adjustment date). "Virginia tax basis" means the aggregate adjusted book basis less the aggregate adjusted tax basis of such assets as recorded on the company's books of accounts as of the last day of the tax year immediately preceding the adjustment date. The amortization of the Virginia tax basis shall be computed using the straight - line method over a period of thirty years beginning on the adjustment date. Gain or loss on the disposition or retirement of any such asset shall be computed using its adjusted federal tax basis, and the amortization of the Virginia tax basis shall continue thereafter without adjustment.

57 A subtraction for intangible expenses and costs added to the federal taxable income of a related member as shown on the Schedule 500AB attached to the Virginia return filed by such related member. (58.1-402 C. 21.)

58 For taxable years beginning on and after January 1, 2006, there shall be subtracted from federal taxable income contract payments to a producer of quota tobacco or a tobacco quota holder as provided under the American Jobs Creation Act of 2004. If the payment is received in installment payments, then the recognized gain may be subtracted in the taxable year immediately following the year in which the installment payment is received. If the payment is received in a single payment, then 10% of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years. For more information visit www.tax.virginia.gov

59 **Income from Dealer Disposition of Property** - Senate Bill 978 allows an adjustment for certain income from dealer dispositions of property made on or after January 1, 2009. In the year of disposition the adjustment will be a subtraction for gain attributable to installment payments to be made in future taxable years provided that (i) the gain arises from an installment sale for which federal law does not permit the dealer to elect installment reporting of income, and (ii) the dealer elects installment treatment of the income for Virginia purposes on or before the due date prescribed by law for filing the taxpayer's income tax return. In subsequent taxable years the adjustment will be an addition for gain attributable to any payments made during the taxable year with respect to the disposition. Each disposition must be tracked separately for purposes of this adjustment.

60 Gains from Land Preservation - Enter the amount of federal gain or income recognized as a result of the sale of Land Preservation credits.

99 Other. Enter the amount of any other income included in federal taxable income, which is not taxable in Virginia. Attach an explanation of the subtraction.

Line 10 Total Subtractions.

Add lines 1-8 and 9a - 9c enter here and on Form 500, line 4.

Section C Amended Return

If you are filing an amended return, complete a new return using

the corrected figures, as if it were the original return. Do not make any adjustments to the amended return to show that you received a refund or paid a balance due as the result of the original return. Be sure to fill in the Amended Return section on page 1, Form 500.

Section D Schedule of VK-1 Withholding

If you are claiming withholding on line 15 of Form 500, complete page 2 of Schedule 500ADJ.

TAX CREDITS

Attach Form 500CR to your return when claiming a credit(s). See the instructions below indicating additional requirements. The following rules apply when claiming credits on Form 500CR.

- Nonrefundable credits without a carryover provision are claimed first.
- Carryover credits must be fully used before any 2009 credits (current year credits) are allowed.
- To maximize allowable credit, carryover credits may be claimed in their order of expiration, regardless of the order shown on Form 500CR.

Neighborhood Assistance Act Credit

The Virginia Neighborhood Assistance Act provides tax credits to businesses that donate money, property, limited professional services and contracting services directly to **pre-approved** Neighborhood Assistance Program (NAP) organizations whose primary function is to benefit impoverished individuals. Licensed veterinarians, physicians, dentists, nurses, nurse practitioners, physician assistants, optometrists, dental hygienists, professional counselors, clinical social workers, clinical psychologists, marriage and family therapists, physical therapists, chiropractors and pharmacists who donate their services for an approved clinic may also be eligible for credits. Qualified organizations are approved for a twelve-month period. Excess donor credit, if applicable, may be carried forward for the next five taxable years. The amount of credit attributable to a partnership or S corporation shall be allocated to the partners and shareholders in proportion to their ownership or interest in the partnership or S corporation. To claim the tax credit, a certificate from the Department of Social Services or the Department of Education must be attached to your return. For a list of approved organizations or additional information, contact: **Virginia Department of Social Services, Neighborhood Assistance Program, 7 North Eighth Street, Richmond VA 23219-3301. or the Virginia Department of Education, Office of Special Education Data and Finance, 101 North 14th Street, Richmond, Virginia 23219.**

Enterprise Zone Act Credit

Businesses located within an Enterprise Zone that have initiated use of the enterprise zone General Income Tax Credit or have a signed agreement with the Commonwealth regarding the use of such credits in place by July 1, 2005 may be eligible based on job creation to take a credit against the tax due on zone taxable income in an amount of 80% of the tax due for the first year and 60% of the tax due for the second through the tenth years. Excess general tax credit, if any, may not be carried forward. Such credits are authorized through fiscal year 2019.

In addition, businesses located within an Enterprise Zone that have initiated use of the Zone Investment Tax Credit or have a signed agreement with the Commonwealth regarding the use of such credits in place by July 1, 2005 may be eligible for a

credit against zone taxable income. The investment credit can be carried forward until the full amount is used. Such credits are authorized through fiscal year 2019. If the annual tax credit requested exceeds the annual appropriation, the Virginia Department of Housing and Community Development (DHCD) will issue a proportionate amount to each qualified business firm requesting the credits.

Portions of the jurisdictions below are designated Enterprise Zones.

Accomack	Hillsville	Prince Edward
Alexandria	James City	Pulaski County
Alleghany	Kenbridge	Pulaski Town
Bedford	Kilmarnock	Richmond City
Brunswick	LaCrosse	Richmond County
Carroll County	Lancaster	Roanoke City
Charlotte	Lawrenceville	Rocky Mount
Chesterfield	Lee County	Saltville
Chilhowie	Lunenburg	Scott County
Clarksville	Lynchburg	Smyth
Clifton Forge	Martinsville	South Boston
Clintwood	Mecklenburg	South Hill
Covington	Narrows	Staunton
Danville	Newport News	Stuart
Dickenson	Norfolk	Suffolk
Dinwiddie	Northampton	Tazewell
Galax	Northumberland	Victoria
Glade Spring	Orange	Warren
Greensville	Patrick	Warsaw
Halifax	Petersburg	Washington
Hampton	Pittsylvania	Waynesboro
Haysi	Portsmouth	Westmoreland
Henrico	Prince George	Wise
Henry		

To claim the enterprise zone credits, businesses qualified by DHCD must complete Enterprise Zone Credit **Form 301**, and transfer the computed amount to the applicable line(s) on Schedule 500CR. Attach Form 301, and Schedule 500CR to your return. For application forms and specific information, contact: **Virginia Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219** or call **(804) 371-7030** or visit **www.dhcd.virginia.gov**.

Conservation Tillage Equipment Credit

A corporation purchasing and using conservation tillage equipment for the purpose of agricultural production may take a tax credit equaling twenty-five percent of tillage equipment expenditures (but not to exceed \$4,000 or the amount of tax, whichever is less) in the year of purchase. The term "conservation tillage equipment" means "no-till" planters and drills, or other equipment used to reduce soil compaction (including guidance systems to control traffic patterns that are designed to minimize soil disturbance) which may be attached to equipment already owned. Any amount unused this year may be carried over to the next five taxable years. The credit shall be allocated to individual partners and shareholders in proportion to their ownership or interest in the partnership or S Corporation.

Attach a statement to your return showing purchase date, description and credit computation when claiming this credit.

Biodiesel And Green Diesel Fuels Credit

Beginning on January 1, 2008, a credit is available for Virginia biodiesel and green diesel fuel producers who produce up to two million gallons of fuel per year. This credit is only available during the first three years of production. Taxpayers may claim a nonrefundable credit against their tax liability for the production of these fuels.

Form BFC is used to apply to the Virginia Department of Taxation

(TAX) for a Biodiesel Fuels Credit after the Department of Mines, Minerals and Energy has certified that you have satisfied all the requirements of § 58.1-439.12:02.

The amount of the credit is \$0.01 per gallon, not to exceed \$5,000 annually. Any credit not used for the taxable year may be carried over to the next three taxable years. The amount of the credit allowed cannot exceed the tax liability for the tax year the credit is being claimed.

The credit may be transferred to another taxpayer. The transfer of the credit must be completed before the end of a tax year in order to use the credit for that tax year.

Fertilizer and Pesticide Application Equipment Credit

The fertilizer and pesticide application equipment credit is 25% of all expenditures for equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application or \$3,750 whichever is less. Qualifying individuals must be engaged in agricultural production for market and have in place a nutrient management plan approved by the local Soil and Water Conservation District. Any amount unused this year may be carried forward for the next five taxable years.

Recyclable Materials Processing Equipment Credit

Recyclable Materials Processing Equipment Credit: For taxable years beginning before January 1, 2015, an income tax credit may be claimed for purchases made during the taxable year for machinery and equipment used exclusively in or on the premises of manufacturing facilities or plant units which manufacture, process, compound or produce items of tangible personal property from recyclable materials within the Commonwealth for sale. For the purposes of determining "purchase price paid", the taxpayer may use the original total capitalized cost of such machinery and equipment, less capitalized interest. The credit is 10% of such expenditures and cannot exceed 40% of the taxpayer's Virginia income tax liability for the year, computed prior to computing the credit. Any amount unused this year may be carried forward for the next ten taxable years.

To claim this credit, you must have received pre-approval from the Virginia Department of Environmental Quality certifying the equipment. Attach your certified DEQ Form 50-11S along with purchase receipts and invoices for the equipment purchased to your income tax return in order to receive the credit. For additional information on how to qualify for certification, contact the **Department of Environmental Quality, Equipment Certification Officer, P.O. Box 1105, Richmond, VA 23218** or call **804-698-4145**.

Rent Reduction Program Credit

The sunset date of the Rent Reductions tax credit has been extended so that the landlords of those tenants for which a credit could be claimed as of December 31, 2005, may continue to earn the credit until December 31, 2010.

Owners of rental property who provide a rent reduction to income eligible tenants who are age 62 or older, are mentally or physically disabled, or have been homeless (i.e. a person who has resided in a domestic violence or homeless shelter) at any time within the twelve months preceding the lease term are eligible to apply for a state income tax credit. The reduced rent must be at least 15% below the market rate. The credit is equal to 50% of the total rent reductions given

to eligible tenants during the taxable year. An individual may not claim this credit on any dwelling unit unless this credit for rental reductions was validly claimed on such dwelling unit for all or part of the month of December 1999 and unless the tenant was an occupant of such dwelling unit on December 31, 2005 (no new owner applications are being accepted). Any amount unused in the taxable year in which it was earned may be carried forward for the next five taxable years. Tax credits are only available for reductions offered after the time of application and approval by Virginia Housing Development Authority (VHDA). Copies of the Certificate of Qualification and Certification of Tax Credits from VHDA must be attached to your return when claiming the credit. For additional information, contact: **Melissa Waller, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220-6504, 804-343-5912.**

Vehicle Emissions Testing Equipment and Clean-Fuel Vehicle Credit

An income tax credit may be claimed for purchases of vehicle emissions testing equipment. The credit is: 20% of the purchase or lease price paid during the taxable year for equipment certified by the Department of Environmental Quality (DEQ) for vehicle emissions testing located within, or adjacent to any county, city or town wherein implementation of an enhanced vehicle emissions inspection program, as defined in § 46.2-1176 is required.

Emissions Testing Equipment Credit Attach a copy of the letter from DEQ to the equipment vendor certifying that the equipment configuration meets the regulation and equipment specification requirements for use in the enhanced vehicle emissions inspection program. **For a copy of this letter, contact your equipment vendor or the DEQ Northern Virginia Regional Office in Woodbridge at 703-583-3900. You are not required to submit a specific form for the emissions testing equipment credit.**

Major Business Facility Job Tax Credit

Individuals, estates, trusts, corporations, banks, insurance companies and telecommunications companies may claim a Virginia tax credit if the taxpayer creates at least 100 new full-time jobs in connection with the establishment or expansion of a major business facility, or if the company is engaged in a qualifying industry in Virginia and creates at least 100 new full-time jobs in Virginia. If a taxpayer is located in an enterprise zone or in an economically distressed area (as defined by the Virginia Department of Economic Development), the threshold is reduced from 100 to 50. Credits will be recaptured proportionately if employment decreases during the five years following the initial credit year.

Qualifying industries include: (1) manufacturing or mining; (2) agriculture, forestry or fishing; and (3) transportation and telecommunications companies. A major business facility includes a headquarters or portion of such a facility located in Virginia, where the majority of the company's financial, personnel, legal, or planning functions are handled either on a regional or national basis. A major business facility shall also include facilities located in Virginia that perform a central management or administrative function for other establishments of the same enterprise such as general management, accounting, computing, tabulating, data processing, purchasing, transportation or shipping, engineering and systems planning, advertising, legal, financial and research and development.

This nonrefundable credit is equal to \$1,000 per qualifying new job in excess of the 100/50 job threshold and is spread over two

years beginning January 1, 2009 through December 31, 2010, and three years for all other taxable years. The credit only applies to facilities where an announcement to expand or establish such a facility was made on or after January 1, 1994. The credit must be claimed ratably over three taxable years, beginning with the taxable year following the year in which the facility is established or expanded, or the new qualifying jobs are added. Unused credits may be carried forward for the next ten taxable years.

Any amount unused this year may be carried forward for the next ten taxable years. Credits will be recaptured proportionately if employment decreases during the five years following the initial credit year. If employment decreases below the threshold, the entire credit will be recaptured.

All pass-through entities must complete Form PTE at least 60 days before the participants file their income tax return. If the participants return is due before the PTE is filed, they must file an amended return to claim the credit or file for an extension.

To apply for this credit, complete **Form 304**. All applications must be submitted to the **Department of Taxation, Tax Credit Unit, PO Box 715, Richmond, VA 23218-0715, 90 days prior to the due date of your return.** A letter will be sent to certify the credit. To claim the credit you must complete Section X of Schedule 500CR.

Clean Fuel Vehicle Job Creation Tax Credit

An income tax credit may be claimed for the creation of full-time clean fuel vehicle jobs. The credit for each job created will be \$700 in the year the job is created and in each of the two succeeding years that the job is continued for a maximum "per job" credit of \$2,100, provided the employment level in clean fuel jobs in the taxable year for which the credit is first claimed has increased from the previous taxable year. If the amount of the credit exceeds the tax liability in a given year, the unused credit may be carried forward for up to five years. To claim this credit, complete **Form 305**, Clean Fuel Vehicle Job Creation Tax Credit, and transfer the computed amount to Schedule 500CR, Part XI. The Clean-Fuel Vehicle Job Creation Tax Credit will not be allowed for jobs for which the taxpayer claims the Major Business Facility Job Tax Credit.

Historic Rehabilitation Tax Credit

Individuals, estates, partnerships, trusts, or corporations, incurring eligible expenses in the rehabilitation of a certified historic structure are entitled to claim a credit against the tax imposed by Sections 58.1-320, 58.1-360, 58.1-400, 58.1-1200, 58.1-2500 or 58.1-2620 of the *Code of Virginia*. The credit is equal to 25% of eligible rehabilitation expenses for projects completed in 2000 and thereafter. To qualify, the cost of the rehabilitation must equal at least 50% (25% if the building is an owner occupied residence) of the assessed value of the building for local real estate tax purposes in the year preceding the start of the rehabilitation. Unused credit may be carried forward for ten years. The rehabilitation work must be certified by the Virginia Department of Historic Resources as *consistent with the Secretary of the Interior's Standards for Rehabilitation*. Certification of buildings and rehabilitations are issued by the Department of Historic Resources and must be attached to the tax return when claiming the credit.

Applications for certification may be obtained from the **Virginia Department of Historic Resources, 2801 Kensington Avenue, Richmond, VA 23221, 804-367-2323** or at www.dhr.virginia.gov.

Day-Care Facility Investment Tax Credit

A credit is allowed in an amount equal to 25% of the expenditures made to establish a day-care facility for the children of employees, not to exceed \$25,000. The total credits approved may not exceed \$100,000 in any fiscal year. To be eligible for the credit: (1) the facility shall be operated under a license issued by the Virginia Department of Social Services; (2) the building permit application for the facility must be submitted after July 1, 1996; (3) the facility must be used primarily by the children of the taxpayer's employees; and (4) the Tax Commissioner must approve the credit application prior to claiming the credit. To apply, submit a letter of application that specifies the employer's name, location of the facility and certification of items (1)-(3) above to: **Virginia Department of Taxation, Tax Credit Administration Unit, P.O. Box 715, Richmond, VA 23218-0715**. Applications are approved in the order received. Approved applicants will receive an approval form from the Department. To claim the credit, complete Part XIII of the Schedule 500CR. This credit is nonrefundable but excess credit may be carried forward for 3 years. For additional information please call (804) 786-2992.

Each pass-through entity must attach Form PTE with the letter of application when applying for this credit. All pass-through entities distributing this credit to its owner(s), shareholders, partners or members must give each a Schedule VK-1, Owner's Share of Income and Virginia Modifications and Credits.

Low - Income Housing Tax Credit

If you are a Virginia taxpayer and claimed a low-income housing tax credit on your federal income tax return for housing units placed in service in Virginia on or after January 1, 1998, you may qualify to claim the state low-income housing tax credit. The state credit is a percentage of the federal credit. For additional information, contact the **Department of Housing and Community Development at (804) 371-7117**.

Agricultural Best Management Practices Tax Credit

This credit is available to individuals or corporations engaged in agricultural production for market who have in place a soil conservation plan approved by the local Soil and Water Conservation District (SWCD). The credit is 25% of the first \$70,000 expended for agricultural best management practices approved by the local SWCD. The maximum credit is \$17,500 or the total amount of state income tax obligation for the corporation. Any amount unused this year may be carried forward for the next five succeeding taxable years. The credit shall be allocated to individual partners and shareholders in proportion to their ownership or interest in the partnership or S Corporation. For more information, contact your local **Virginia Soil and Water Conservation District**.

Worker Retraining Credit

The Worker Retraining Tax Credit allows an employer to claim a tax credit for the costs of providing retraining to qualified employees. "Eligible worker retraining" includes noncredit courses that are approved by the Department of Business Assistance and that are provided by any of the

Commonwealth's community colleges or a private school. "Eligible worker retraining" programs also include courses (credit and noncredit) undertaken through an apprenticeship agreement approved by the Virginia Apprenticeship Council. The credit is 30% of all training costs through a community college, or up to \$100 annual credit per student of the cost incurred at a private school. Employers must apply for certification of the amount of allowable credit using **Form WRC, Worker Retraining Tax Credit**, by April 1 of the year following the year the training expenses were paid or incurred before claiming the credit on their income tax return. All approved businesses filing a timely **Form WRC** will be notified of their allowable credit by June 30, 2009. The maximum worker retraining credits granted to all employers is limited to \$2,500,000 annually. If total credits approved exceed this amount, each will be prorated. The credit is allowable against individual income tax, estate and trust tax, corporation income tax and the bank franchise tax. The credit is also allowable against taxes imposed upon insurance companies and utility companies (under Sections 58.1-2500 et. seq. and 58.1-2620 et seq., Code of Virginia). This credit is nonrefundable, but excess credit may be carried forward for the next three taxable years. Pass-Through Entities must file Form PTE with the Department of Taxation at least 60 days before filing their income tax return. A copy of the certification letter from the Department of Taxation is a required attachment to Form PTE. To claim this credit complete Part XVI of Schedule 500CR. For information on pre-approved apprenticeship programs, contact the **Virginia Department of Labor and Industry at 804-225-4362**. For information on noncredit course approval, contact the **Virginia Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone 804-371-8200**.

Waste Motor Oil Burning Equipment Credit

A business that operates a facility in Virginia which accepts waste motor oil from the public is allowed a tax credit equal to 50% of the purchase price paid for equipment for the taxable year provided that the equipment is used exclusively for burning waste motor oil at the business facility. The total credit allowed to any taxpayer in any taxable year is limited to \$5,000. Taxpayers successfully applying for the equipment certification with the Virginia Department of Environmental Quality by filing Form **DEQ 50-12** will receive a statement from that agency certifying that the equipment is used for burning waste motor oil. For additional information concerning equipment qualifying for the credit or to apply for tax credit certification, contact: **Virginia Department of Environmental Quality, Attention: Equipment Certification Officer, P.O. Box 1105, Richmond, VA 23218, or call 804-698-4145**.

Riparian Forest Buffer Protection for Waterways Tax Credit

Individuals and corporations may qualify for an income tax credit of 25% of the value of the timber on an area designated as a riparian buffer for a waterway. The credit may not exceed \$17,500 or the total amount of tax, whichever is less. To apply for this credit, file Department of Forestry (DOF) Form 179 with DOF or apply on line at www.dof.virginia.gov. If you are approved for this credit, DOF will send you a Tax Credit Certificate.

A riparian buffer is land adjacent to a waterway on which timber may be harvested. In order to receive the credit, the owner of such land must refrain from harvesting more than 50% of such timber. The buffer must be at least 35 feet wide

and no more than 300 feet. There must be a Stewardship Plan and annual certification of compliance for each tract. The buffer must remain in place for at least fifteen years. The land that is the subject of this credit cannot be the subject of this credit again for fifteen years after it was first taken. The credit may be carried over for the succeeding five taxable years. For more information, contact: **Virginia Department of Forestry, 900 Natural Resources Drive, Suite 800, Charlottesville, VA 22903, 434-977-6555.**

Land Preservation Tax Credit

This tax credit is for taxpayers that convey land or interest in land located in Virginia to a public or private agency eligible to hold such land or interests therein for conservation or preservation purposes. The conveyance must be in perpetuity.

The credit for 2006 and prior is 50% and the credit for 2007 and beyond is 40% of the fair market value, as substantiated by a "qualified appraisal" prepared by a "qualified appraiser", as those terms are defined under applicable federal law and regulations governing charitable contributions. The credit limit for a taxpayer has been \$100,000. However, for taxable years 2009 & 2010, the total amount of credit that may be used per taxpayer per taxable year may not exceed \$50,000 or the tax liability, whichever is less. For taxpayers affected by the 2009 & 2010 usage limit, an additional 2 year carryforward will be added to the credit. Any unused credit not affected by the carryforward limit will remain the same (5 years for donations originating prior to January 1, 2007 and 10 years for donations originating on or after January 1, 2007).

The credits will be issued in the order that a complete application, along with its required documentation, is received (please see Form LPC). In addition to the previous requirements, for donations with a credit value of \$1 million or more, TAX must receive approval of the conservation value from DCR before the issuance of the credit. Once the CAP is met, any remaining donations recorded in the current calendar year will be issued for the next available calendar year. The amount of the annual limit for each year will be increased by an amount equal to \$100 million multiplied by the percentage of the consumer price index (CPI-U) published by the U.S. Department of Commerce, for the 12 month period ending August 31 of the previous year. Any taxpayer holding a Land Preservation tax credit that originated on or after **January 1, 2002**, may transfer unused but otherwise allowable credit for use by another taxpayer on Virginia income tax returns. Transfers and pass-through allocations from donations recorded on or after 1/1/07 are subject to a fee of 2% of the donated interest, which equates to 5% of the credit amount transferred or allocated. The fee is capped at \$10,000 per taxpayer per donation. So if you are transferring or allocating credits derived from more than one donation, your fee may exceed \$10,000. The fee does not apply to transfers and allocations on donations made prior to January 1, 2007, even though the actual transfer may not occur until after January 1, 2007. This fee only impacts transfers of donations recorded after January 1, 2007.

If this credit is taken, for the next three years taxpayers cannot take a subtraction for the gain on the sale of land or easements dedicated to open-space use. A subtraction is allowed for any gain or income recognized by a taxpayer on the application of a Land Preservation tax credit against a Virginia income tax liability, to the extent the gain is included in and not otherwise subtracted from federal adjusted gross income. The transfer of the credit and its application against

a tax liability shall not create gain or loss for the transferor or the transferee.

Before claiming the credit, complete and file Form LPC-1 with the Department within 90 days of the credit origination, but at least 90 days before filing an annual return. This form is used to notify the Department of a donation of land or interest in land that creates a Land Preservation credit. To transfer an unused credit to another taxpayer, the transferor should complete and file Form LPC-2 and send the appropriate fee (if applicable) at least 90 days before the transferees file their annual return. Upon receipt of Form LPC-1 or LPC-2, the Department will issue an Acknowledgment letter. To claim the credit, complete Part XIX of Schedule 500CR. For assistance contact the **Virginia Dept. of Taxation, Tax Credit Unit, P. O. Box 715, Richmond, VA 23218-0715, or call 804-786-2992.**

Virginia Coal Employment and Production Incentive Tax Credit

For taxable years beginning on and after January 1, 2001, every electricity generator in the Commonwealth will be allowed a credit against their corporation income tax or modified net income tax of an electric cooperative for coal mined in Virginia. The credit is at the rate of three dollars per ton for each ton purchased and consumed by the electricity generator provided the coal was mined in Virginia. The credit is available in the year the purchased coal mined in Virginia is consumed by the electric generator. This credit is nonrefundable and any credit not usable for the taxable year in which such credit is earned may be carried over to the next five succeeding taxable years or until the full credit is utilized, whichever is sooner. In order to receive this credit, the cogenerator shall include certification by the seller that the coal was mined in Virginia. Also, a cogenerator may not claim this credit and the Coal Cogeneration Credit on the same ton of coal.

The credit may be allocated between the electricity generator and any person with an economic interest in coal, effective for purchases of coal made on or after January 1, 2006. The allocation of the credit may be provided in the contract between the parties for the sale of the coal. The parties may amend any such allocation with a written instrument prior to December 31 of the year that the coal was purchased. All contracts and written instruments are subject to audit by TAX.

Credits earned on or after January 1, 2006, which are allocated to persons with an economic interest in coal may be used against any tax imposed by the Commonwealth. If the credits earned on or after January 1, 2006, and prior to July 1, 2011, exceed the tax liability of the taxpayer, the excess may be redeemed in a manner similar to the Coalfield Employment Enhancement Tax Credit. The carryover period for this credit is extended from five years to ten years. This change in the carryover period is effective for coal purchased and consumed on or after January 1, 2001.

Coalfield Employment Enhancement And Refundable Coal Employment And Production Incentive Tax Credits

For taxable years beginning on or after January 1, 1996, but before January 1, 2015, a tax credit may be earned by individuals, estates, trusts and corporations who have an economic ownership interest in coal mined in Virginia. The credit is based on the quantity of coal or methane gas

produced and employment levels. If the number of coal mining jobs for the year the credit is earned is less than in the previous year, the maximum earned credit is reduced by an employment factor. The allowable credit must be computed on Form 306, Coalfield Employment Enhancement Tax Credit, and reported on the return filed for the tax year in which the credit is earned. **Form 306** must be attached to the tax return when filed. The allowable credits may be claimed in taxable years beginning on or after January 1, 1999, and are subject to a specific redemption schedule. This credit may not be claimed for any ton of coal for which the Coal Cogeneration Credit or the Virginia Coal Employment and Production Incentive Tax Credit is claimed. For forms and additional information, contact the Department of Taxation. To claim this credit, complete Form 306 and transfer the applicable amount to Schedule 500CR, Part XXII.

Donations to the General Fund

Legislation passed by the 2002 General Assembly allows you to make donations directly to Virginia's General Fund by writing a check payable to the State Treasurer and designating it as a donation to the Commonwealth's General Fund. To ensure proper accounting for these donations, you must attach your payment to Form GFD. Visit www.tax.virginia.gov or call (804) 367-8037 to obtain this form.