Updated International Trade Facility Tax Credit Guidelines

***These Guidelines supersede the International Trade Facility Tax Credit Guidelines that were issued by the Department on April 17, 2012 and December 7, 2012 (Public Documents 12-45 and 12-205).*

Introduction

During the 2011 session, the Virginia General Assembly enacted Senate Bill 1136 (2011 Acts of Assembly, Chapter 49), which established the International Trade Facility Tax Credit. This is an individual and corporate income tax credit for either capital investment in an "international trade facility" (as defined by *Va. Code* § 58.1-439.12:06(A)) or increasing jobs related to such facility. The amount of the credit is equal to either $3,000 per qualified full-time employee that results from increased qualified trade activities by the taxpayer or two percent of the capital investment made by the taxpayer to facilitate the increased qualified trade activities.

Two additional port tax credits were enacted during the 2011 General Assembly session: the Barge and Rail Usage Tax Credit (*Va. Code* § 58.1-439.12:09) and the Port Volume Increase Tax Credit (*Va. Code* § 58.1-439.12:10). These credits provide separate tax incentives for certain companies that use Virginia port facilities. Although all three credits offer incentives for port-related activities, each credit is mutually exclusive, and separate definitions and requirements apply to each credit. Taxpayers may claim the International Trade Facility Tax Credit in the same taxable year that they claim the Barge and Rail Usage Tax Credit and/or the Port Volume Increase Tax Credit.

During the 2012 session, the General Assembly enacted House Bill 1183 and Senate Bill 578 (2012 Acts of Assembly, Chapters 846 and 849), which increased the jobs portion of the International Trade Facility Tax Credit from $3,000 to $3,500 per qualified full-time employee that results from increased qualified trade activities by the taxpayer. As this legislation became effective July 1, 2012, the increased credit amount may be claimed beginning in Taxable Year 2012.

During the 2014 session, the General Assembly enacted House Bill 873 (2014 Acts of Assembly, Chapter 423), which: (i) reduces from 10 percent to 5 percent the annual increase in cargo transported through a Virginia maritime port necessary to qualify as an international trade facility; (ii) expands the type of cargo that qualifies for the credit to include noncontainerized cargo and roll-on/roll-off cargo; (iii) increases the amount of annual International Trade Facility Tax Credits that the Department of Taxation ("the Department") may issue in any fiscal year from $250,000 to $1.25 million; (iv) eliminates additional tax credits for international trade facilities that create new jobs or make capital investments in a tobacco dependent locality; and (v) requires the Department to annually provide information to the Virginia Port Authority regarding the International Trade Facility Tax Credits issued.

These guidelines are issued by the Department to provide guidance to taxpayers regarding the International Trade Facility Tax Credit. These guidelines are exempt from the provisions of the Administrative Process Act (*Va. Code* § 2.2-4000 *et seq*.)

according to the provisions outlined in *Va. Code* § 58.1-439.12:06. These Guidelines supersede the International Trade Facility Tax Credit Guidelines issued by the Department on April 17, 2012 and December 7, 2012 (Public Documents 12-45 and 12-205). As necessary, additional guidelines will be published and posted on the Department's website, www.tax.virginia.gov.

These guidelines represent the Department's interpretation of the relevant laws. They do not constitute formal rulemaking and hence do not have the force and effect of law or regulation. In the event that the final determination of any court holds that any provision of these guidelines are contrary to law, taxpayers who follow these guidelines will be treated as relying on erroneous written advice for purposes of waiving penalty and interest under *Va. Code* §§ 58.1-105, 58.1-1835 and 58.1-1845. To the extent there is a question regarding the application of these guidelines, taxpayers are encouraged to write to the Department and seek a written response to their question.

Requirements for an International Trade Facility

For purposes of the International Trade Facility Tax Credit, an "international trade facility" is defined as a company that:

- Is engaged in port-related activities;
- Uses any publicly or privately owned maritime port facilities located in Virginia; and
- Transports at least 5 percent more cargo through any publicly or privately owned cargo facility located within the Commonwealth through which cargo is transported during the taxable year than was transported by the company through such facilities during the preceding taxable year.[1]

For purposes of this credit, the term "international trade facility" refers to the company itself, rather than the facility where port-related activities are being conducted by the company. Each company that qualifies as an international trade facility will calculate one base year amount and one credit amount each year, regardless of the number of facilities owned or the number of projects undertaken by that company. Accordingly, if the amount of cargo transported through one particular maritime port facility in Virginia does not increase by at least 5 percent, this may affect whether the company meets the 5 percent volume increase requirement, even if the company increases the number of qualifying containers transported through other facilities.

> *Example 1: Computing Maritime Port Cargo Volume Increases*
> Company A is a company that is engaged in port-related activities and uses two different maritime port facilities located in Virginia ("Facility 1" and "Facility 2"). During the 2013 taxable year, Company A transports 100 20-foot equivalent marine containers through Facility 1 and 200 20-foot equivalent marine containers through Facility 2. During the 2014 taxable year, Company A

[1] *See Va. Code* § 58.1-439.12:06(A). Note that prior to Taxable Year 2014, the applicable percentage was 10 percent.

transports 106 20-foot equivalent marine containers through Facility 1 and 203 20-foot equivalent marine containers through Facility 2. Company A's increase in maritime port cargo volume is computed as follows:

$$\frac{(106 + 203) - (100 + 200)}{(100 + 200)} = 3\%$$

Although Company A has increased the amount of cargo that it transported through Facility 1 by 6 percent, it has only increased the total amount of cargo transported through all maritime facilities by 3 percent. Because Company A has not increased the total amount of cargo transported through all maritime facilities in Virginia by at least 5 percent, it does not qualify as an international trade facility and cannot claim the International Trade Facility Tax Credit during the 2014 taxable year.

The definition of an "international trade facility" for purposes of this credit is different than the definition of an "international trade facility" for purposes of the Barge and Rail Usage Tax Credit. Accordingly, each definition should be applied separately for each credit.

"Port-related activities" include, but are not limited to, warehousing, distribution, freight forwarding and handling, and goods processing.

For purposes of determining the amount of cargo transported through public or private maritime port facilities in Virginia, one 20-foot equivalent marine container is equivalent to 16 net tons of noncontainerized cargo. One net ton is equivalent to one short ton, or 2,200 pounds. Moreover, for purposes of determining the amount of cargo transported through maritime port facilities in Virginia, one 20-foot equivalent marine container is equivalent to one unit of roll-on/roll-off cargo.

For purposes of determining the number of 20-foot equivalent marine containers transported through Virginia maritime facilities, only a full container load qualifies. A full container load (FCL) is a standard 20-foot, 40-foot, or 45-foot container that is loaded and discharged under the account of one shipper and is intended for one consignee. For cargo shipped in 40-foot or 45-foot marine containers, one full container load is equivalent to two 20-foot equivalent marine containers.

A less than container load (LCL) is cargo that is insufficient in either weight or volume to qualify for the freight rates that apply to a standard shipping container and is therefore combined with cargo owned by other shippers or with cargo intended for at least one other consignee. An LCL does not qualify as a 20-foot equivalent marine container for purposes of this credit.

Criteria for Qualified Full-Time Employees

For Taxable Year 2012 and thereafter, the jobs portion of the International Trade Facility Tax Credit is equal to $3,500 per qualified full-time employee that results from increased qualified trade activities by the taxpayer. A “qualified full-time employee” is an employee filling a new, permanent full-time position in an international trade facility in Virginia. To qualify as a “new, permanent full-time position,” the position filled by the employee must be either:

- A job of indefinite duration, created by the company after establishing or expanding an international trade facility in Virginia, requiring a minimum of 35 hours of employment per week for each employee for the entire normal year (defined as at least 48 weeks in a calendar year) of the company’s operations, or
- A position of indefinite duration that requires a minimum of 35 hours of employment per week for each employee for the portion of the taxable year in which the employee was initially hired for, or transferred to, the international trade facility in Virginia.

Only employees filling permanent full-time positions qualify for this credit. Accordingly, employees filling seasonal or temporary positions do not qualify for this credit.

Additionally, positions that are ancillary to the principal activities performed by the employees at the international trade facility do not qualify for this credit. Such positions include jobs in building and grounds maintenance and security positions.

Jobs created when a job function is shifted from an existing location in Virginia to the international trade facility do not qualify for this credit. However, otherwise qualifying jobs that are created when a job function is shifted from an existing location in another state to an international trade facility located in Virginia are eligible for the credit.

Related Party Rules

An international trade facility may not claim a credit for certain employees who were previously employed by a related party or a business under common control. Examples of employees that do not qualify for purposes of this credit include the following:

- An employee for whom an International Trade Facility Tax Credit was previously earned by a related party or by a trade or business under common control;
- An employee who was previously employed in the same job function in Virginia by a related party or by a trade or business under common control;
- An employee whose job function was previously performed at a different location in Virginia by an employee of the taxpayer, by a related party, or by a trade or business under common control; and

- An employee whose job function previously qualified for an International Trade Facility Tax Credit at a different major business facility (as defined in *Va. Code* § 58.1-439(C)), on behalf of the taxpayer, by a related party, or by a trade or business under common control.

For purposes of these limitations, "related party" means a related party as defined in IRC § 267(b). A "trade or business under common control" means a trade or business under common control as defined for purposes of the federal Work Opportunity Tax Credit in IRC § 52(b).

Criteria for Capital Investments

The capital investment portion of the International Trade Facility Tax Credit is equal to 2 percent of the amount of capital investment made by the taxpayer to facilitate increased qualified trade activities. For Taxable Year 2014 and thereafter, "qualified trade activities" are defined as the completed exportation or importation of at least (i) one International Organization for Standardization ocean container with a minimum 20-foot length (ii) 16 tons of noncontainerized cargo, or (iii) one unit of roll-on/roll-off cargo through any publicly or privately owned cargo facility located within Virginia through which the cargo is transported. Export cargomust be loaded on a barge or ocean-going vessel at such facility and import cargo must be discharged from a barge or ocean-going vessel at such facility.

For purposes of this credit, "capital investment" is defined as the amount properly chargeable to a capital account for improvements to rehabilitate or expand depreciable real property placed in service during the taxable year and the cost of machinery, tools, and equipment used in an international trade facility directly related to the movement of cargo. Capital investment includes the following:

- Expenditures associated with any exterior, structural, mechanical, or electrical improvements necessary to expand or rehabilitate a building for commercial or industrial use;
- Expenditures associated with excavations, grading, paving, driveways, roads, sidewalks, landscaping, or other land improvements; and
- The cost of machinery, tools, and equipment placed in service by the international trade facility on and after January 1, 2011.

For purposes of this credit, "machinery, tools, and equipment" does not include the following:

- Property for which an International Trade Facility Tax Credit was previously granted;
- Property previously placed in service by the taxpayer, a related party as defined in IRC § 267(b), or a trade or business under common control as defined in IRC § 52(b); or

- Property previously in service in Virginia that has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom acquired or IRC § 1014(a).

The following are not considered capital investments for purposes of this credit:

- The cost of acquiring any real property or building;
- The cost of furnishings;
- Any expenditure associated with appraisal, architectural, engineering, or interior design fees;
- Loan fees, points, or capitalized interest;
- Legal, accounting, realtor, sales and marketing, or other professional fees;
- Closing costs, permit fees, user fees, zoning fees, impact fees, and inspection fees;
- Bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities costs incurred during construction;
- Utility hook-up or access fees;
- Outbuildings; and
- The cost of any well or septic system.

Computation and Carryover of Credits

For Taxable Year 2011, taxpayers may claim a credit equal to either $3,000 per qualified full-time employee that results from increased qualified trade activities by the taxpayer or two percent of the capital investment made by the taxpayer to facilitate the increased qualified trade activities. For Taxable Year 2012 and thereafter, the jobs portion of the credit is equal to $3,500 per qualified full-time employee that results from increased qualified trade activities by the taxpayer. In cases where a qualified full-time employee works in Virginia for less than 12 months during the credit year, the credit for this employee is computed by multiplying the credit amount by a fraction, the numerator of which is the number of full months the employee works for the international trade facility in Virginia during the credit year and the denominator of which is 12.

The amount of credit claimed by a taxpayer cannot exceed 50 percent of the tax imposed on that taxpayer for the taxable year. Any remaining credit amount may be carried forward for the next ten taxable years. If a taxpayer is also allowed another tax credit or has a credit carryforward from a preceding taxable year, the taxpayer is considered to have first utilized any credit that does not have a carryforward provision, and then any credit carried forward from a preceding year, before using any of the International Trade Facility Tax Credit for that year.

Because an international trade facility is a company, rather than a physical location, the provisions of this credit apply at the company level, rather than on a per-project basis. Accordingly, each company may only claim either the jobs tax credit or the investment tax credit each year, regardless of the number of facilities owned by the company or the number of projects undertaken each year.

Example 2: Computation of International Trade Facility Tax Credits
Company B is an international trade facility that expanded its operations in 2011 to facilitate increased qualified trade activities. As a result of this expansion, in 2012, Company B hires twenty qualified full-time employees and incurs capital investment expenses of $2 million. Company B is entitled to claim either a jobs tax credit or a capital investment tax credit.

If Company B elects to claim a jobs tax credit, the credit amount is computed as follows:

(20 jobs created) x ($3,500 per job) = $70,000

If Company B elects to claim the capital investment tax credit, the credit amount is computed as follows:

($2,000,000 capital investment) x (2%) = $40,000

Company B can elect to claim either the job credit or the capital investment credit, but cannot claim both for the same year, even if the costs are incurred as a result of separate projects.

Example 3: Credit Computation and Carryover
Assume the same facts as Example 2 and also assume that Company B elects to claim the jobs tax credit in an amount equal to $70,000. Company B’s tax liability for the 2012 taxable year is $40,000 and the company does not claim any other credits for the 2012 taxable year. *Va. Code* § 58.1-439.12:06(D) limits the amount of credit claimed to 50 percent of the tax imposed for the taxable year. Accordingly, Company B can only use $20,000 of the International Trade Facility Tax Credit for the 2012 taxable year. It can then carry forward the remaining $50,000 credit through the 2022 taxable year.

Example 4: Credit Computation for Fractional Employees
Assume the same facts as Example 2, except that ten of the employees hired by Company B during 2012 do not begin working until September 1, 2012. These employees still qualify for the credit. The portion of the $3,500 credit earned with respect to each fractional employee must be determined as follows:

($3,500 credit) x (4 months/12) = $1,166.67

The total jobs tax credit amount is then computed as follows:

(10 jobs created) x ($3,500 per job) = $35,000
(10 jobs created) x ($1,166.67 per job) = $11,667

Total jobs tax credit = $46,667

Example 5: Application of the Credit Election Rules
Company C is an international trade facility that is engaged in port-related activities at two different maritime port facilities in Virginia (“Facility 1” and “Facility 2”). As a result of its increased qualified trade activities, Company C decides to expand two buildings, one located at Facility 1 (“Building 1”) and the second located at Facility 2 (“Building 2”). To implement the expansion, Company C makes a capital investment of $2 million in Building 1 and a capital investment of $10 million in Building 2 during Taxable Year 2012.

Also as a result of its increased qualified trade activities, Company C decides to hire 100 additional employees to work at Facility 1 and 50 additional employees to work at Facility 2 during Taxable Year 2012.

Company C can elect to claim either the job tax credit or the capital investment tax credit. However, it can only elect one of the two credits for all projects – it cannot elect the job tax credit for Facility 1 and the capital investment tax credit for Facility 2.

If Company C elects to claim the capital investment tax credit, it could apply for a credit of $240,000, computed as follows:

($2,000,000 + $10,000,000) x (2%) = $240,000

If Company C elects to claim the jobs tax credit, it could apply for a credit of $525,000, computed as follows:

(100 jobs + 50 jobs) x ($3,500) = $525,000

Recapture of Certain Credits

Part or all of the jobs tax credit may be recaptured if employment levels fall below certain threshold amounts in any of the five years following the year for which the credit was earned. There are two situations in which recapture may occur. In both situations, any recapture will first reduce any credit carryforward amounts before increasing a taxpayer’s tax liability.

The first situation occurs when the number of qualified full-time employees in any of the five years succeeding the credit year falls below the average number of qualified full-time employees employed during the credit year. In this situation, all or part of the credit will be recaptured by (i) recalculating the credit which would have been earned for the original credit year using the decreased number of qualified full-time employees and (ii) subtracting the recomputed credit amount from the amount of credit previously earned.

The second recapture situation occurs when the average number of qualifying full-time employees employed at an international trade facility in any of the five taxable years succeeding the credit year falls below the amount employed by the taxpayer prior to claiming any credits. If this occurs, all credits earned with respect to the international trade facility must be recaptured.

Example 6: Partial Recapture of Credits – Applied Against Carryover
Company D is an international trade facility that expanded its operations in 2011 to facilitate increased qualified trade activities. As a result of this expansion, Company D hires 20 qualified full-time employees in 2012 and is granted a jobs tax credit equal to $70,000. Company D's tax liability for the 2012 taxable year is $40,000. Company D claims a jobs tax credit equal to $20,000 on its 2012 income tax return and carries forward the remaining $50,000 credit.

Company D employed an average of 100 qualified full-time employees during the 2011 taxable year and an average of 120 qualified full-time employees during the 2012 taxable year. During the 2013 taxable year, Company D only employs an average of 110 qualified full-time employees. Part of Company D's credit must be recaptured pursuant to *Va. Code* § 58.1-439.12:06(H). The recapture amount is computed as follows:

Recomputed credit amount: (10 jobs created) x ($3,500 per job) = $35,000

Difference: ($70,000 claimed) – ($35,000 recomputed credit) = $35,000

$35,000 worth of credit must be recaptured. Because Company D has a carryforward amount equal to $50,000, this amount is reduced to $15,000 and Company D will not be assessed any additional taxes.

Example 7: Partial Recapture of Credits – Additional Tax Assessed
Assume the same facts as Example 6, except that Company D's tax liability for the 2012 taxable year is $150,000 and it claims a jobs tax credit equal to $70,000 on its 2012 income tax return. In this case, Company D will be assessed additional income taxes in an amount equal to $35,000.

Example 8: Recapture of the Entire Credit Amount
Company E is an international trade facility that expanded its operations in 2011 to facilitate increased qualified trade activities. As a result of this expansion, it hires 20 qualified full-time employees in 2012 and is granted a jobs tax credit equal to $70,000. Company E's tax liability for the 2012 taxable year is $40,000. It claims a jobs tax credit equal to $20,000 on its 2012 income tax return and carries forward the remaining $50,000 credit.

Company E employed an average of 100 qualified full-time employees during the 2011 taxable year and 120 qualified full-time employees during the 2012 taxable year. During the 2013 taxable year, Company E employs an average of 90 qualified full-time employees. The average number of employees during 2013 was less than the average number of employees employed by Company E in 2011 (prior to claiming any credits), so the entire $70,000 credit amount must be recaptured. Because Company E has a $50,000 credit carryover, the carryover amount will be reduced to $0 and the company will be assessed additional income taxes in an amount equal to $20,000.

Treatment of Affiliated Companies

Two or more affiliated companies may elect to aggregate the number of jobs created for qualified full-time employees or the amount of capital investments as the result of establishment or expansion by the individual companies in order to qualify for the International Trade Facility Tax Credit. For purposes of this credit, "affiliated companies" means two or more companies related to each other so that (i) one company owns at least 80 percent of the voting power of the other or others or (ii) the same interest owns at least 80 percent of the voting power of two or more companies.

If two or more affiliated companies elect to aggregate the number of jobs or amount of capital investments, the taxpayers must compute the original credit amount based on the companies' combined number of jobs and amount of capital investment. In order to aggregate the number of jobs or capital investments, corporate taxpayers must file a combined or consolidated Virginia income tax return.

Once an election has been made to aggregate the companies' employment figures, the companies must then continue to aggregate their figures for purposes of determining any applicable recapture amount.

Example 9: Computation and Redemption of Credits by Affiliated Companies
Company F and Company G are affiliated companies and both companies are international trade facilities for purposes of the International Trade Facility Tax Credit. For the 2011 taxable year, Company F had an average of 50 employees and Company G had an average of 100 employees.

In 2011, Company F expands its operations to facilitate increased qualified trade activities. As a result of this expansion, Company F hires 20 qualified full-time employees in 2012. Company G also expands its operations in 2011 to facilitate increased qualified trade activities and, as a result of this expansion, hires 30 qualified full-time employees in 2012.

The two companies elect to aggregate the number of jobs created for purposes of the International Trade Facility Tax Credit and file a consolidated Virginia income tax return. Accordingly, the aggregate average number of employees for the 2011 taxable year is 150 and the average number of employees for the 2012 taxable year is 200. The aggregate number of jobs created during the 2012 taxable year is 50. For the 2012 taxable year, the companies can apply for a $175,000 International Trade Facility Tax Credit.

Example 10: Carryover of Credit Amounts by Affiliated Companies
Assume the same facts as Example 9, but also assume that the two companies have a consolidated income tax liability of $50,000 for the 2012 taxable year. Assuming that the companies are allocated the full $175,000 credit, they may claim a $25,000 International Trade Facility Tax Credit on their 2012 consolidated corporate income tax return. The remaining $150,000 credit can be carried forward through the 2022 taxable year.

Example 11: Recapture of Credit Amounts by Affiliated Companies
Assume the same facts as Example 9, but also assume that, in 2013, Company F has an average number of 80 qualified full-time employees and Company G has an average number of 120 qualified full-time employees. For the 2013 taxable year, Company G's average number of qualified full-time employees is less than the average number of qualified full-time employees during the credit year. However, because Company F and Company G have elected to aggregate the number of jobs created for full-time employees, the aggregate average number of qualified full-time employees in 2013 is equal to 200 and no recapture is required.

Example 12: Recapture of Credit Amounts by Affiliated Companies
Assume the same facts as Example 9, but also assume that the companies have sufficient tax liability to use the full credit amount during the 2012 taxable year. In 2013, Company F has an average number of 80 qualified full-time employees and Company G has an average number of 110 qualified full-time employees. For the 2013 taxable year, the companies' aggregate average number of qualified full-time employees is equal to 190. Because this is less than the companies' aggregate average number of qualified full-time employees for the credit year, part of the credit amount must be recaptured. The recapture amount is computed as follows:

Recomputed credit amount: (40 jobs created) x ($3,500 per job) = $140,000

Difference: ($175,000 credit claimed) – ($140,000 recomputed credit) = $35,000

The recapture amount is $35,000. If the companies have already claimed the full $175,000 credit, they will be assessed additional income taxes in an amount equal to $35,000. Otherwise, the carryforward amount will be reduced by up to $35,000, and any remaining amount will be assessed.

Administration of the Credit

To receive the International Trade Facility Tax Credit, taxpayers must apply to the Department by completing Form ITF. Every taxpayer that applies for the International Trade Facility Tax Credit must verify containers or cargo shipped through Virginia Port Authority-operated port facilities on the Virginia Port Authority's website (www.portofvirginia.com). A validation summary must then be attached to Form ITF. If any containers were shipped through non-Virginia Port Authority owned facilities, these containers should be listed on a schedule that must be attached to Form ITF. Taxpayers claiming the jobs portion of the International Trade Facility Tax Credit must also complete the International Trade Facility Port Job Creation Schedule. Form ITF and all required validation summaries, schedules, and supporting documentation must be completed and mailed no later than April 1 of the year following the taxable year during which credits were earned.

For Taxable Years 2011 through 2013, the total amount of International Trade Facility Tax Credits granted could not exceed $250,000 per calendar year. For Taxable Year 2014 and thereafter, the total amount of International Trade Facility Tax Credits granted cannot exceed $1.25 million in any calendar year. If the amount of credits applied for exceeds $1.25 million, the Department will allocate the credits proportionately among all qualified taxpayers. The Department will review all applications for completeness and notify taxpayers of any errors by June 1 of the calendar year in which Form ITF was submitted. If any additional information is needed, it must be provided no later than June 15 of that year to be considered for the tax credit. The Department will notify all eligible taxpayers of the amount of allocated credits by June 30 of the calendar year in which Form ITF was submitted.

Upon receiving notification of the allowable credit amount, taxpayers may claim this amount on the applicable Virginia income tax return.

> *Example 13: Applying for the International Trade Facility Tax Credit*
> Company J is a calendar year filer that qualifies as an international trade facility (as defined by *Va. Code* § 58.1-439.12:06(A)). In 2014, Company J hires twenty qualified full-time employees and wishes to claim the jobs tax credit in an amount equal to $70,000.
>
> To receive this credit, Company J must submit Virginia Form ITF to the Department on or before April 1, 2015. On or before June 1, 2015, the Department will notify Company J of the amount of credit received. If the total amount of International Trade Facility Tax Credits requested by all taxpayers on applications received by April 1, 2015 is $2.5 million, then all taxpayers will be allocated a credit equal to 50 percent of the requested amount. In this case, Company J would be allocated a credit equal to $35,000.
>
> Company J can then claim the amount of credit issued on its 2014 income tax return. If Company J files its income tax return for the 2014 taxable year before it

receives notification from the Department, it can claim the International Trade Facility Tax Credit by filing an amended return for the 2014 taxable year.

Taxpayers claiming the credit must keep all supporting documentation, including Virginia Port Authority verification summaries and any additional supporting documentation demonstrating base year port cargo volume and the amount of cargo transported through maritime port facilities in Virginia during the taxable year. Taxpayers claiming the jobs portion of the International Trade Facility Tax Credit must retain employment records for at least five years for recapture purposes. Taxpayers claiming the capital investment portion of the credit must retain documentation of capital expenditures, including receipts, invoices, and project plans. Any supporting documentation must be provided by the taxpayer upon request.

Effective for credits issued for Taxable Year 2014, the Department is required to annually provide information to the Virginia Port Authority regarding the International Trade Facility Tax Credits issued.

Interaction of Port-Related Tax Credits

For Taxable Years 2011 through 2013, a taxpayer could qualify for more than one port-related tax credit in the same taxable year, but could not claim multiple port-related tax credits for the same activity or activities. For Taxable Year 2014 and thereafter, however, a taxpayer may claim both the Port Volume Increase Tax Credit and the Barge and Rail Usage Tax Credit for the same containers, noncontainerized cargo, or roll-on/roll-off cargo, provided such taxpayer meets the criteria of both tax credits.

Additional Information

These guidelines are available online in the Tax Policy Library section of the Department's website, located at www.policylibrary.tax.virginia.gov. For additional information, please contact the Department at (804) 367-8037 or the Virginia Port Authority at (800) 446-8098. For assistance with the container and cargo verification process, contact the Virginia Port Authority at (757) 391-6235 or helpdesk@vit.org.

Approved:

Craig M. Burns
Tax Commissioner