

**INSTRUCTIONS FOR PREPARING**

**FORM 500**

**VIRGINIA CORPORATION INCOME TAX**

**RETURN FOR 2011**



**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF TAXATION**  
**RICHMOND, VIRGINIA**

# INSTRUCTIONS FOR PREPARING FORM 500

## VIRGINIA CORPORATION INCOME TAX RETURNS FOR 2011

### VATAX Online Services for Businesses

[www.tax.virginia.gov](http://www.tax.virginia.gov)

-  **e-file your Return** – With Corporate e-file you can electronically file your federal and state corporate income tax returns together at the same time. There are various commercial software programs available that provide e-file capability. E-file software will automatically check for completeness, correct errors, generate the applicable schedules and transmit the return from your computer to the IRS's computer and to our computer. It is convenient, easy, and fast. You may use e-file for 2011 returns and prior year returns beginning with 2009. Please visit our website to find out more about our Corporate e-file program.
-  **iFile your Estimated Payments** – Use Business iFile to make your Corporate Estimated and Filing Extension payments online. iFile is easy to use and provides a history of your estimated and extension payments. Payments can be scheduled to debit at a future date.
-  **Need Help** – Our website has lots of valuable information to help you. If you still can't find what you're looking for, try Live Chat.
- Tax Policy Library** – For easy access to the Code of Virginia, Tax Regulations, Legislative Summaries, Rulings by the Tax Commissioner, Tax Bulletins and Attorney General Opinions.
- E-Subscriptions** – Sign up and stay informed. By subscribing, you will periodically receive automatic e-mail notifications regarding legislative changes, filing reminders, and other relevant information.
- Forms** – Download tax returns and schedules from our website, order forms online or call (804) 440-2541 to request a form.

#### Assistance

Contact us for assistance using Live Chat, Secure e-mail, by phone (804-367-8037), by fax (804-254-6111) or requests for information may be mailed to: **Department of Taxation P.O. Box 1115 Richmond, Virginia 23218-1115**

## WHAT'S NEW

**Advancement of Virginia's Fixed Date Conformity with the Internal Revenue Code** Virginia's date of conformity with the Internal Revenue Code (IRC) was advanced from January 22, 2010, to December 31, 2010, with limited exceptions. Virginia will continue to disallow federal income tax deductions for the 30% and 50% bonus depreciation allowed for certain assets and the five-year carryback of federal net operating loss deductions generated in taxable years 2008 or 2009. Also, Virginia will continue to disallow the income tax deductions related to applicable high yield discount obligations under IRC § 163(e)(5)(F). In addition, fixed date conformity adjustments continue to be required for Cancellation of Debt Income under IRC § 108(i), and the domestic production deduction under IRC § 199.

At the time these instructions went to print, the only required adjustments for "fixed date conformity" were those mentioned above. However, if federal legislation is enacted that results in changes to the Internal Revenue Code for the 2011 taxable year, taxpayers will be required to make adjustments to their Virginia returns that are not described in the instruction booklet. Information about any such adjustments will be posted on the Department's website at [www.tax.virginia.gov](http://www.tax.virginia.gov). See pages 6 and 7 for additional information.

**Long-Term Capital Gain Subtraction:** Effective for taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership income (otherwise known as investment partnership carried interest income) for federal tax purposes is allowed as a subtraction on the Virginia return. This subtraction is allowed if the income is attributable to an investment in a "qualified business" as defined in *Va. Code* § 58.1-339.4 or in any other technology business approved by the Secretary of Technology and the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues for the fiscal year preceding the investment. The investment

must be made between the dates of April 1, 2010, and June 30, 2013.

#### Manufacturer's Apportionment- Alternative Election:

For taxable years beginning on or after July 1, 2011, qualifying manufacturing corporations may elect to determine their Virginia taxable income by using an apportionment formula with a triple-weighted sales factor. A single sales factor apportionment formula will be phased in over a three year period beginning as a triple-weighted sales factor, followed by a quadruple-weighted sales factor, and then a single sales factor for taxable years beginning on and after July 1, 2014. See Schedule 500A instructions for further information and qualifications.

**Telework Expenses Tax Credit:** A new income tax credit is available for taxpayers who incur eligible telework expenses pursuant to a telework agreement or conduct telework assessments during the 2012 and 2013 calendar years. To claim a credit for the 2012 taxable year, taxpayers must have submitted a credit reservation application, Form TEL-1, between September 1 and October 31 of 2011. Visit [www.tax.virginia.gov](http://www.tax.virginia.gov) for more information.

#### New Corporate Income Tax Credits for 2011

- Livable Home Tax Credit
- Farm Wineries and Vineyards Tax Credit
- Motion Picture Production Tax Credit
- Research and Development Expenses Tax Credit
- International Trade Facility Tax Credit
- Port Volume Increase Tax Credit
- Barge and Rail Usage Tax Credit

For further information on these credits, see the section on "Tax Credits" in these instructions.

**INSTRUCTIONS FOR PREPARING FORM 500**  
**VIRGINIA CORPORATION INCOME TAX RETURNS FOR 2011**  
**(References are to the Code of Virginia, unless otherwise noted)**

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**GENERAL INFORMATION**

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**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 either through e-File or by mailing a return to **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. (*Va. Code* § 58.1-441).

A Domestic International Sales Corporation (DISC) is 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.

A Foreign Sales Corporation (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 *Va. Code* § 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, a Captive REIT is 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 is reduced by one-half for Taxable Years 2009 and 2010.

Electing small business corporations, not taxable as corporations under *Va. Code* § 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 IRC § 501(c), 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. (*Va. Code* § 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. (*Va. Code* § 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. (*Va. Code* § 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.

**Apportionment for Manufacturers - Alternative Election** Qualifying manufacturing corporations may elect to determine their Virginia taxable income by using a single factor apportionment formula based on sales. This modification will be phased in as follows:

- A triple-weighted sales factor may be elected for taxable years beginning on or after July 1, 2011, but before July 1, 2013;
- A quadruple-weighted sales factor may be elected for

taxable years beginning on or after July 1, 2013, but before July 1, 2014; and

- A single sales factor may be elected for taxable years beginning on and after July 1, 2014.

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 either through e-File or by mailing a return to **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. (*Va. Code* § 58.1-441.)

## EXTENSION OF TIME, FORM 500CP

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](http://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 IRC § 6621, 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 Electronic Payment Guide by visiting our website at [www.tax.virginia.gov](http://www.tax.virginia.gov).

## COMPUTER GENERATED/PREPARED FORMS

A corporation may elect to file its Virginia Corporation Income Tax return on Department approved computer-generated forms. Please see our website on using substitute forms and the approval process.

## 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. (*Va. Code* § 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. (*Va. Code* § 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% per month from the date of filing through the date of payment, to a maximum of 30% of the tax due. Civil and criminal penalties may be imposed for filing a fraudulent return. The criminal penalty for filing a fraudulent return is a Class 6 felony. (*Va. Code* § 58.1-451 and *Va. Code* § 58.1-452.) Interest on the unpaid balance of any tax and penalty is charged at the underpayment rate established by IRC § 6621, 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. (*Va. Code* § 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. Also, used to compute the corrected tax liability for an amended Form 500.

**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) report payments; and (iii) 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. (*Va. Code* § 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. Alternatively, the Virginia return and the entire federal return may be submitted by e-file. Visit our website to find out more about our Corporate e-file program.

#### **NONPROFIT HOSPITALS**

Nonprofit hospitals are required to provide the Department of Taxation with 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% or more of the outstanding voting stock of another or others, or if 80% 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 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. (*Va. Code* § 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 *Va. Code* § 58.1-442:

- (1) a consolidated return means a single return for a group of corporations affiliated within the meaning of *Va. Code* § 58.1-302, prepared in accordance with the principles of IRC § 1502 and regulations thereunder;
- (2) a combined return means a single return for a group of corporations affiliated within the meaning of *Va. Code* § 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. (*Va. Code* § 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. (*Va. Code* § 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 *Va. Code* § 58.1-406 through *Va. Code* § 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. §§ 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 or 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, 2010. Thus, federal changes effective after December 31, 2010, will require modifications for Virginia purposes. For certain tax years, a

taxpayer may carry back a net operating loss five years for federal purposes, however, the loss can only be carried back two years for Virginia purposes unless an exception is allowed under federal law. Consequently, to the extent federal and Virginia net operating loss carry backs and carry forwards differ, separate accounting will be required. For example: If the federal loss is carried back five years, there will be no adjustment to Virginia returns for the fifth, fourth, and third carry back years. The federal loss can be carried back two years for Virginia purposes and separate tax records must be maintained to reconcile the differences. In certain tax years, the carry back period for net operating losses is the same for federal and Virginia (two years). An adjustment still may be necessary depending on differences between the five and two year carry backs. There is no Virginia net operating loss, as such, available for carry back or carry forward. 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 carry back 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.

Also, due to the reduced tax liability in carry back and carry forward years, the credits previously claimed in those years may need to be adjusted as well as the credit carryover amounts. An amended Form 500 should be filed indicating the change in the amount of credits claimed and the corrected carryover amounts. Attach a revised Schedule 500CR to the amended returns filed to report the changes to the credit(s) claimed or carryover amount resulting from the NOL carry back.

For a copy of the Virginia regulations, visit [www.tax.virginia.gov](http://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 disponible en Español.

## ESTIMATED INCOME TAX

You can file and pay estimated income tax online ([www.tax.virginia.gov](http://www.tax.virginia.gov)). If a corporation filed estimated taxes last year, then personalized vouchers will be mailed to you unless you are required to pay by EFT. If by February 14, 2012, you have not received your vouchers, you may print your own vouchers using third-party software or download nonpersonalized vouchers from our website. 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, *Va. Code* § 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 fourth 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. (*Va. Code* § 58.1-500 - *Va. Code* § 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 IRC § 501(c), adjusted as provided under *Va. Code* § 58.1-402; except a corporation subject to the provisions of *Va. Code* § 58.1-403.

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## **FORM 500 INSTRUCTIONS**

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**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
- Physical Address Change - physical address has changed since your last filing
- Mailing Address Change - mailing 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
- 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](http://www.tax.virginia.gov).

**Check Applicable Boxes** to indicate any of the following:

- Consolidated-Schedule 500AC Attached
- Combined-Schedule 500AC Attached
- Change in Filing Status
- Multistate Corporation Schedule 500A Attached
- Schedule 500AB Attached

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

**Telecommunications Company - Corporations** - Complete **Form 500T** and enter the amount from **Form 500T**, Line 7 on **Page 1 of Form 500** in the Telecommunications Company section and Line 11 on Page 2 of Form 500.

**Noncorporate Telecommunications Companies:** Complete Form 500T, check the Noncorporate Telecommunications, Company box, enter amount from **Form 500T**, Line 10 on Form 500 on Page 1 in the Noncorporate Telecommunications section and Line 11 on Page 2 of Form 500.

**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, Schedule 500CR, 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 carry back a net operating loss. Use Form 500NOLD, Corporation Application For Refund Carryback of Net Operating Loss. Be sure to file using the correct form. Using the incorrect form delays the processing of your return and may result in having your tax return sent back to you.

Amended returns for tax years beginning in 2008 must use **Form 500** and check the amended return box. Also, check other applicable boxes to indicate the reason for filing the amended return. Complete the amended Form 500 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 a result of the original return. This computation is made in Section C of Schedule 500ADJ. Attach Schedule 500ADJ, Schedule 500CR and all other applicable forms and schedules. The required attachments include any original schedules filed (as adjusted) as well as any new or added schedules. You must also provide an explanation of changes to income and modifications. Provide the line reference from the Form 500 for which a change is reported, and give the reason for each change. Show any computation in detail and attach any applicable schedules. Attach federal Form 1120X if an amended federal return was filed.

For tax years beginning in 2007 and prior, you should use Form 500X, amended corporation income tax return. You may also use the Form 500 for tax years prior to 2007 and write "Amended" across the top of the return. The Form 500X and prior year Form 500 are available on our Web site for the years 1997 through 2007. You must provide an explanation of changes to income and modifications and give the reason for each change. Show any computation

in detail and attach any applicable schedules. Attach federal Form 1120X if an amended federal return was filed.

**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 7.

**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 10.

**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. (Va. Code § 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, Section B, Line 3(j).

#### Line 8 (b) Apportionment Factor

Enter apportionment factor from the appropriate line from Schedule 500A, Section B, Line 1 or 2(g).

#### 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, Div. of Taxation*, 504 U.S. 768 (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 2011 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 XXIX, Line 132.

**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 2010, elected as a credit against 2011 estimated tax.

**Line 13 Extension Payments**

Enter the amount of any extension payments.

**Line 14 Total Refundable Tax Credits**

Enter the amount from Schedule 500CR, Part XXXIII, Line 140.

**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 IRC § 6621, 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 2012**

Enter the amount of overpayment you want credited to your 2012 estimated tax, if any.

**Line 24 Amount to be Refunded**

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

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 2011 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 2011 inclusive. If the total 2011 Virginia depreciation is less than 2011 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, 04-2, 05-1, 06-1, 07-1, 08-1, 09-1, 10-4, 10-8, and 11-1 at [www.tax.virginia.gov](http://www.tax.virginia.gov) or call (804) 367-8037.

**Line 2 Fixed Date Conformity — Other.**

**Disposed Asset** – If an asset was disposed of in 2011 and such asset received the special 30% or 50% bonus depreciation deduction for federal purposes in any year from 2001 through 2011 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 2011 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, 03-1, 04-2, 05-1, 06-1, 07-1, 08-1, 09-1, 10-4, 10-8, and 11-1 which are available on the Department's website: [www.tax.virginia.gov](http://www.tax.virginia.gov) or call (804) 367-8037.

**Cancellation of Debt Income** - Enter the amount that was excluded from your federal return pursuant to IRC § 108(i) on Line 6 of Form 500ADJ using Code 15. You must include all cancellation of debt income from transactions in 2011.

**Domestic Production Deduction** - Enter 1/3 of the total amount of the domestic production deduction claimed on your federal return pursuant to IRC § 199 on Line 6 of Form 500ADJ using Code 17.

**Other changes not listed** – Please refer to the Supplemental Fixed Date Conformity Instructions on the Department's website, [www.tax.virginia.gov](http://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 the Virginia 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. (*Va. Code* § 58.1-402 B.8 and *Va. Code* § 58.1-402 B.9.)

**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. (*Va. Code* § 58.1-402 B.4.)

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## INSTRUCTIONS FOR SCHEDULE 500ADJ

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**Section A - Additions to Federal Taxable Income****Line 1 Fixed Date Conformity – Depreciation.**

Enter the amount that should be added to Federal Taxable

**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. (Va. Code § 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. (Va. Code § 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. (Va. Code § 58.1-403 9.)
- 03** Unrelated business taxable income as defined by IRC § 512 (to the extent excluded from Line 1, **Form 500**). (Va. Code § 58.1-402 B.5.)
- 05** The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution under IRC § 667. (Va. Code § 58.1-402 B.7.)
- 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. (Va. Code § 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. (Va. Code § 58.1-403 1.)
- 14** Enter the amount of dividends deductible under IRC § 561 and IRC § 857 by a Captive Real Estate Investment Trust (REIT). (Va. Code § 58.1-402 B.10.)
- 15** **Cancellation of Debt Income (Fixed Date Conformity Adjustment)**  
Enter the amount that was excluded from your federal return pursuant to IRC § 108(i). You must include all cancellation of debt income from transactions in 2011. Additionally, if you elected to report the amount of cancellation of debt income from transactions in 2009 as an addition in equal amounts over three taxable years (2009, 2010, and 2011), include the amount of cancellation of debt income from transactions before April 21, 2010 that must be reported in 2011. (Va. Code § 58.1-301 B.4.)

**Code**

**16 Income from Dealer Disposition of Property**

Enter the amount that would be reported under the installment method from certain dispositions of property. If, in a prior year, the taxpayer was allowed a subtraction for certain income from dealer dispositions of property made on or after January 1, 2009, in the years following the year of disposition, the taxpayer is required to add back the amount that would have been reported under the installment method. Each disposition must be tracked separately for purposes of this adjustment. (Va. Code § 58.1-402 (F).)

**17 Domestic Production Deduction (Fixed Date Conformity Adjustment)**

Enter 1/3 of the total amount of the domestic production deduction claimed on your federal return pursuant to IRC § 199. For taxable years 2010 and thereafter, Virginia does not conform to the domestic production deduction allowed under IRC § 199. Instead of allowing this deduction to flow through, Virginia allows a deduction equal to 2/3 of the federal deduction. (Va. Code § 58.1-301 B.5.)

**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 2011 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 2011 inclusive. If the total 2011 Virginia depreciation is more than 2011 federal depreciation, then the difference must be recognized as a subtraction on Line 1. For further instructions, see Virginia Tax Bulletin 02-3, 03-1, 04-2, 05-1, 06-1, 07-1, 08-1, 09-1, 10-4, 10-8, and 11-1 at [www.tax.virginia.gov](http://www.tax.virginia.gov) or call **(804) 367-8037**.

**Line 2 Fixed Date Conformity — Other.**

**Disposed Asset** - If an asset was disposed of in 2011 and such asset received the special 30% or 50% bonus depreciation deduction for federal purposes in any of the years 2001 through 2011, 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 2011. 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, 03-1, 04-2, 05-1, 06-1, 07-01, 08-1, 09-1, 10-4, 10-8, and 11-1 which are available on the Department's website: [www.tax.virginia.gov](http://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](http://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. (Va. Code § 58.1-402 C.1.)

**Line 4** Any amounts included under the provisions of Section 78 of the IRC (Va. Code § 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. (Va. Code § 58.1-402 C.4.)

**Line 6** Any amount included therein by the operation of Section 951 of the IRC (subpart F income). (Va. Code § 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. (Va. Code § 58.1-402 C.8.)

**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. (Va. Code § 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

- 50** The amount of wages and salaries eligible for the Federal Work Opportunity Tax Credit which are not deducted for federal tax purposes. (Va. Code § 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. (Va. Code § 58.1-402 C.3.)
- 52** The amount of income received as a result of payments made under the Tobacco Master Settlement Agreement, and the National Tobacco Grower Settlement Trust. (Va. Code § 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. (Va. Code § 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. (Va. Code § 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. (Va. Code § 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. (Va. Code § 58.1-440.1.)
- 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. (Va. Code § 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. (P.L. 108-357). 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. (Va. Code § 58.1-402 (D).) For more information visit [www.tax.virginia.gov](http://www.tax.virginia.gov).

**59** **Income from Dealer Disposition of Property** - An adjustment is available 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. (Va. Code § 58.1-402 (F).)

**60** **Gains from Land Preservation** - Enter the amount of federal gain or income recognized as a result of the sale of Land Preservation credits. (Va. Code § 58.1-513 (D).)

**61** **Long-term Capital Gain** - For taxable years beginning on or after January 1, 2011, enter any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for this subtraction, the income must be attributable to an investment in a "qualified business," as defined in Va. Code § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. The investment must be made between the dates of April 1, 2010, and June 30, 2013. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under Va. Code § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business. (Va. Code § 58.1-402 C.24.)

**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.

In cases where a Form 500NOLD is filed to carry back or carry forward a net operating loss, an amended Form 500 should be

filed indicating the change in the amount of credits claimed and the corrected carryover amounts. Attach a revised Schedule 500CR to the amended returns filed to report the changes to the credit(s) claimed or carryover amount resulting from the NOL carry back.

### Section D Schedule of VK-1 Withholding

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

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### TAX CREDITS

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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 2011 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 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, 801 E. Main Street, Richmond, VA 23219-3301 or the Virginia Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, Division of Special Education and Student Services, Attn: Neighborhood Assistance Tax Credit Program for Education.**

#### **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.

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, Office of Community Revitalization & Development Special Needs Housing, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219** or call **804-371-7030** or visit [www.dhcd.virginia.gov](http://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 for a Biodiesel Fuels Credit after the Department of Mines, Minerals and Energy has certified that you have satisfied all the requirements of *Va. Code* § 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. For more information, contact: **Virginia Department of Taxation, Tax Credit Unit, P.O. Box 715, Richmond, VA 23218-0715**, or call **804-786-2992**.

### **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 (DEQ) 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 rent reductions tax credit expired on December 31, 2010, and no new credits will be issued after this date. However, any unused credits may be carried forward for the next five taxable years. Accordingly, taxpayers may be able to claim carryforwards from prior taxable years. You should retain documentation to support your claim for the tax credit as an audit may be conducted to verify any credit claimed under these provisions.

For additional information, contact: **Brenda Hawkins, Program Compliance Manager at the Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220-6504** or call **804-343-5763**.

### **Clean-Fuel Vehicle and Vehicle Emissions Testing Equipment Credits**

An income tax credit may be claimed for purchases of vehicle emissions testing equipment and clean-fuel vehicles. The credit is: (1) 10% of the costs used to compute the credit under IRC § 30 (qualified electric vehicles) and (2) 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 *Va. Code* § 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.**

**Clean-Fuel Vehicle Credit** You are not required to submit a specific form as part of your tax return to document the purchase of a clean-fuel vehicle. However, you should retain documentation to support your claim for the tax credit as an audit may be conducted to verify any credit claimed under these provisions.

### **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 50 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 50 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 50 to 25. 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 50/25 job threshold and is spread over two years beginning January 1, 2009, through December 31, 2012, 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](http://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 three 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. The Board of Housing and Community Development stopped approving low-income housing credits beginning June 30, 2010. However, any unused credits may be carried forward for the next five taxable years. Accordingly, taxpayers may be able to claim credit carryforwards from prior taxable years. For additional information, contact the **Virginia Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219** at (804) 371-7000.

### **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. Effective for tax years beginning on and after January 1, 2011, this credit is refundable to individual taxpayers. The credit is still non-refundable to corporate taxpayers. If a PTE distributes this credit to an individual partner, shareholder, or member, the amount of the Agricultural Best Management Practices Tax Credit listed on the individual's Schedule VK-1 is refundable. Any amount distributed by a PTE to a corporate partner, shareholder, or member is non-refundable. 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 of the calendar year following the year the training expenses were paid or incurred. 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 *Va. Code* § 58.1-2500 et seq. and *Va. Code* § 58.1-2620 et seq.). This credit is nonrefundable, but excess credit may be carried forward for the next three taxable years. 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: **Virginia Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446**, or call **804-371-8120**.

### **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 online 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**, or call **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, and 2011, 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, and 2011 usage limit, an additional three

year carryforward will be added to the credit. Any unused credits not affected by the modified carryforward periods will maintain the original carryforward periods (five years for donations originating prior to January 1, 2007, and 10 years for donations originating on or after January 1, 2007).

The maximum amount of Land Preservation Tax Credits that may be issued in a calendar year will be increased by any credit amounts that have been disallowed or invalidated by Department of Taxation. Also, if the Department of Taxation requires a second qualified appraisal within 30 days after an application for tax credits has been filed, an application for a land preservation credit is not deemed complete until the fair market value of the donation is finally determined by the Tax Commissioner.

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 January 1, 2007, are subject to a fee of 2% of the donated interest, which equates to 5% of the credit amount transferred or allocated. For transfers of credits earned for donations made before July 1, 2010, the fee is capped at \$10,000 per taxpayer per donation. There is no fee cap for transfers of credits earned from donations made on or after July 1, 2010. 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.

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.

### **Community of Opportunity Tax Credit**

For tax years beginning on or after January 1, 2010, a tax credit may be claimed by landlords with qualified housing units located in census tracts with poverty rates of less than 10% in the Richmond Metropolitan Statistical Area who participate in the Housing Choice Voucher program.

The amount of tax credit for an eligible property will be based on 10% of annual Fair Market Rent for that specific unit and prorated when units are qualified for less than the full tax year. Prorations will be based on full calendar months. A landlord may receive tax credits on one or more units within the same tax year. Credits taken for any one tax year cannot exceed the tax liability for that year. Credits not taken for the year for which they are allocated may be carried forward, but cannot be carried forward for more than five years.

To be eligible for the credit, participating landlords must apply to the Department of Housing and Community Development. The maximum amount of credit that may be issued in a fiscal year is \$450,000. Should eligible applications received by the March 1 deadline exceed the annual appropriation, tax credits will be prorated based on the total amount of qualified requests received and the total amount of credits available. If the annual appropriation for tax credits is not fully allocated based on qualified applications received by the

March 1 deadline, the remaining balance will be allocated on a first-come, first-served basis. Unused balances will not be allocated more than three years after the tax year in which they were first made available.

Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders in proportion to their ownership or interest in such business entity. The landlord must assume responsibility for distributing credits in this manner. No person shall be allowed both a Community of Opportunity tax credit and a Rent Reductions tax credit under *Va. Code* § 58.1-339.9 for the rental of the same dwelling unit in a taxable year.

For additional information, please contact: **Virginia Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219**, or call **804-371-7000**.

### **Green Job Creation Tax Credit**

For tax years beginning on or after January 1, 2010, but before January 1, 2015, a credit may be claimed for each new "green job" that is created in Virginia. The amount of the credit is \$500 for each position that is created and that has an annual salary of \$50,000 or more. The tax credit may be claimed in the first taxable year in which the job has been filled for at least one year, and for the four succeeding taxable years in which the job is continuously filled.

The tax credit is for up to 350 green jobs per taxpayer. Any unused credits may be carried over for five taxable years. Any taxpayer claiming a green jobs tax credit may also qualify for benefits under the Enterprise Zone Grant Program. Taxpayers that claim the Green Job Creation Tax Credit are not allowed to claim a Major Business Facility Jobs Tax Credit or a federal tax credit for investments in clean energy manufacturing facilities that fosters the creation of the same job.

To apply for this credit, complete **Form GJC**. 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 XXII of Schedule 500CR.

### **Farm Wineries and Vineyards Tax Credit**

For taxable years beginning on and after January 1, 2011, an individual and corporation income tax credit is available for Virginia farm wineries and vineyards in an amount equal to 25% of the cost of all qualified capital expenditures made in connection with the establishment of new Virginia farm wineries and vineyards and capital improvements made to existing Virginia farm wineries and vineyards.

The total amount of tax credits available for a calendar year cannot exceed \$250,000. If applications for this credit exceed \$250,000, the Department of Taxation will allocate the credits on a pro rata basis. Any credit amounts that exceed a taxpayer's liability can be carried forward for ten years. Taxpayers cannot claim both this credit and a federal deduction for the same expenses under IRC § 179.

The business must apply for the credit by April 1st using **Form FWV**. Submitting a late application will disqualify you from the credit. All applications must be sent to the **Virginia Department of Taxation, Tax Credit Unit, P.O. Box 715, Richmond, VA 23218-0715**. This credit requires certification from the Tax Credit Unit to be claimed on your tax return. A letter will be sent to certify the credit. For assistance contact the **Tax Credit Unit at 804-786-2992**.

### **International Trade Facility Tax Credit**

For taxable years beginning on and after January 1, 2011 but before January 1, 2015, an income tax credit is allowed for either capital investment in an international trade facility or increasing jobs related to an international trade facility. Taxpayers can elect to claim either credit, but cannot claim both credits in the same taxable year. If the amount of credits allowable for companies in tobacco-dependent localities exceeds the amount deposited in the Fund, the credits will be allocated to taxpayers on a pro rata basis by the Department of Taxation. The amount of the credit is equal to \$3,000 per new qualified full-time employee that results from increased qualified trade activities by the taxpayer or 2% of the amount of capital investment made by the taxpayer to facilitate the increased eligible trade activities. Any company that creates jobs or makes capital investments in a "tobacco-dependent locality" is permitted to claim a port tax credit equal to \$6,000 per job created or 4% of qualified capital investment expenses, to the extent that money is available in the Tobacco-Dependent Localities Fund. If the amount of money available in the Fund is less than the amount applied for, the portion of the credit for taxpayers located in tobacco-dependent localities will be allocated pro rata. If there is no money deposited in the Fund, taxpayers in tobacco-dependent localities will be entitled to a credit equal to \$3,000 per job created or 2% of qualified capital investment expenses.

No more than \$250,000 in tax credits can be issued in any fiscal year. If the amount of tax credits requested exceeds \$250,000, the credits will be allocated proportionately among all qualified taxpayers. The Virginia Department of Taxation will determine the credit amount for the taxable year and provide a written certification to each taxpayer. The amount of the credit will be limited to fifty percent of the taxpayer's tax liability for the taxable year. Any unused credit amount can be carried forward for ten years.

The business must apply by April 1st using **Form ITF**. Submitting a late application will disqualify you from the credit. All applications must be sent to the **Virginia Department of Taxation, Tax Credit Unit, P.O. Box 715, Richmond, VA 23218-0715**. This credit requires certification from the Tax Credit Unit to be claimed on your tax return. A letter will be sent to certify the credit. This letter must be attached to your return.

For assistance contact the **Tax Credit Unit at 804-786-2992**.

### **Port Volume Increase Tax Credit**

For taxable years beginning on and after January 1, 2011 but before January 1, 2016, an individual and corporate income tax credit is available for taxpayers engaged in the manufacturing of goods or the distribution of manufactured goods that use Virginia port facilities and increase port cargo volume through these facilities.

To qualify for the credit, a taxpayer must generally increase its port cargo volume at Virginia port facilities in a single calendar year by 5% over its base year port cargo volume. Base year port cargo volume is equal to the total amount of net tons of noncontainerized cargo or 20-foot equivalent units (TEUs) of cargo actually transported by way of a waterborne ship or vehicle through a port facility during the 2010 calendar year. The amount of the credit is generally equal to \$50 for each TEU above the base year port cargo volume. However, a qualifying major facility may apply for a credit equal to \$50 for each TEU transported through a port facility during the major facility's first calendar year.

Any taxpayer claiming this credit must first submit an application to the Virginia Port Authority by March 1 of the calendar year

after the taxable year in which the increase in port cargo volume occurs. The maximum amount of tax credits is capped at \$3.2 million for each calendar year. If, on March 15 of each year, the cumulative amount of tax credits requested by qualifying taxpayers for the prior year exceeds \$3.2 million, the credits will be prorated among the qualifying taxpayers who requested the credit. A qualifying taxpayer is generally not permitted to receive more than \$250,000 each calendar year. However, if, on March 15 of each year, the \$3.2 million credit amount is not fully allocated among qualifying taxpayers, those taxpayers who have already been allocated a credit for the prior year will receive a pro rata share of the remaining credit amount. For more information, contact: **Virginia Port Authority, 600 World Trade Center, Norfolk, VA 23510**, or call **800-446-8098**.

### **Barge and Rail Usage Tax Credit**

For taxable years beginning on and after January 1, 2011, but before January 1, 2015, a business may receive an income tax credit for the usage of barge and rail to move cargo containers throughout the Commonwealth rather than using trucks or other motor vehicles on the Commonwealth's highways.

The amount of the credit is \$25 per 20-foot equivalent unit (TEU) moved by barge or rail. To receive this credit, an international trade facility is required to apply to the Department of Taxation. No more than \$1.5 million in tax credits can be issued in any fiscal year. The Department of Taxation will determine the allowable credit amount for the taxable year and provide a written certification of the credit amount to each taxpayer. Taxpayers can claim this credit against the individual income tax, the corporate income tax, the tax on estates and trusts, the bank franchise tax, the insurance premiums tax, and the tax on public service corporations. Any unused tax credits may be carried over for five taxable years.

The business must apply by April 1st using **Form BRU**. Submitting a late application will disqualify you from the credit. All applications must be sent to the **Virginia Department of Taxation, Tax Credit Unit, P.O. Box 715, Richmond, VA 23218-0715**. This credit requires certification from the Tax Credit Unit to be claimed on your tax return. A letter will be sent to certify the credit. This letter must be attached to your return.

For assistance contact the **Tax Credit Unit at 804-786-2992**.

### **Livable Home Tax Credit**

Effective for taxable years beginning on and after January 1, 2011, licensed contractors may be eligible for an income tax credit of up to \$5,000 for the purchase/construction of a new accessible residence or up to 50% of the cost of retrofitting activities on an existing residence not to exceed \$5,000. Any tax credit that exceeds the eligible licensed contractor's tax liability may be carried forward for up to seven years. If the total amount of tax credits issued under this program exceeds \$1 million in a fiscal year, Virginia Department of Housing and Community Development (DHCD) will prorate the amount of credits among the eligible applicants. The existing cap of \$1 million for credits earned each year is divided, reserving one-half for the purchase or construction of a new residence and the other half for the renovation of an existing residence. Any portion of the \$500,000 reserved for one activity that is not used will be allocated to the remaining balance of tax credits authorized for the other activity. Licensed contractors must obtain pre-approval before claiming the credit on their income tax returns. Applications are to be filed with the DHCD by February 28 of the year following the year in which the purchase/construction or retrofitting was completed. Documentation must be submitted with the application. For

more information, contact: **Virginia Department of Housing and Community Development, Special Needs Housing, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219**, or call **804-371-7124**.

### **Research and Development Expenses Tax Credit**

An individual and corporate income tax credit is allowed for qualified research and development expenses incurred during taxable years beginning on or after January 1, 2011, but before January 1, 2016. The tax credit amounts are (i) 15% of the first \$167,000 in Virginia qualified research and development expenses, or (ii) 20% of the first \$175,000 of Virginia qualified research and development expenses if the research was conducted in conjunction with a Virginia public or private college or university, to the extent the expenses exceed a base amount. There is a \$5 million cap on the total amount of credits allowed in any fiscal year. If the total amount of approved tax credits is less than the \$5 million limit, the Department of Taxation will allocate the remaining amount to the taxpayers already approved for the tax credits for the taxable year for fifteen percent of the second \$167,000 in Virginia qualified research expenses or 20 percent of the second \$175,000 in the Virginia qualified research expenses if the research was conducted in conjunction with a Virginia public college or university to the extent the expenses exceed the Virginia base amount, on a pro rata basis.

The business must apply for the credit by April 1st using **Form RDC**. Submitting a late application will disqualify you from the credit. All applications must be sent to the **Virginia Department of Taxation, Tax Credit Unit, P.O. Box 715, Richmond, VA 23218-0715**. This credit requires certification from the Tax Credit Unit to be claimed on your tax return. A letter will be sent to certify the credit.

The amount of the credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company (LLC) must be allocated to the individual partners, shareholders, or members in proportion to their ownership or interest within the business entity using Form PTE within 30 days after the credit is granted.

Any taxpayer who claims the tax credit for Virginia qualified research and development expenses cannot use such expenses as the basis for claiming any other credit provided under the Code of Virginia. If the taxpayer conducts research and development in Virginia on human cells or tissue derived from induced abortions or from stem cells obtained from human embryos, then the credit for the approved research and development expenses will not be allowed to be refunded to the taxpayer. Accordingly, if you conducted embryonic stem cell research in Virginia, you must enter the amount of credit granted in Part XXVIII. If you did not conduct embryonic stem cell research in Virginia, enter the amount of credit granted in Part XXXII.

### **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 the third taxable year following the taxable year in which the credit was earned and allowed. This credit may not be claimed for any ton of coal for which the Virginia Coal Employment and Production Incentive Tax Credit is claimed.

**Virginia Coal Employment and Production Incentive Tax Credit** This credit may be allocated between a qualifying electricity generator and qualifying person with an economic interest in coal. The allocation of this credit may not exceed \$3 per ton. All credits earned on or after January 1, 2006, or prior to July 1, 2016, which are allocated to persons with an economic interest in coal may be redeemed by the Tax Commissioner if the credits exceed the taxpayer's state tax liability for the applicable taxable year. You must complete Form 306, Form 306T and its attachments to claim these credits.

For forms and additional information, contact the Department of Taxation. To claim these credits, complete **Form 306** and transfer the applicable amount to Schedule 500CR, Part XXX.

### **Motion Picture Production Tax Credit**

Qualifying motion picture production companies are eligible to receive a series of refundable individual and corporate income tax credits for taxable years beginning on and after January 1, 2011.

**Base-Income Tax Credit:** The base credit available is 15% of all qualifying expenses (including wages), with a bonus of 5% if the production is filmed in an economically distressed area of the Commonwealth, making the total base credit available up to 20% of qualifying expenses.

**Additional Virginia Resident Credit:** The production company is allowed an additional credit of 10% to 20% of the total aggregate payroll for Virginia residents employed in connection with the motion picture production. For companies that spend at least \$250,000 in total production costs in the Commonwealth, but not more than \$1 million, the credit will equal 10% of the total Virginia resident aggregate payroll. For companies that spend over \$1 million in total production costs in the Commonwealth, the credit will equal 20% of the total aggregate Virginia resident payroll.

**Additional Virginia Resident First-Time Industry Employee Credit:** In addition to the above outlined credits, companies may claim a credit of 10% of their total aggregate payroll for Virginia residents who are employed as first time actors or first time members of a production crew in connection with a production in Virginia.

The aggregate amount of all motion picture credits to be issued is capped at \$2.5 million for the 2010-2012 biennium and \$5 million in each biennium thereafter. To qualify for this credit, production companies must submit an initial application to the Virginia Film Office ("VFO") at least 30 days prior to production and must enter into a Memorandum of Understanding. After production is complete, the production company must submit documentation to the VFO and will be issued a certification letter. A taxpayer may only claim this credit after receiving the certification letter from the VFO. For more information, contact: **Virginia Film Office, 901 East Byrd Street, Richmond, VA 23219-4048**, or call **800-854-6233**.

Credits available through the Virginia Motion Picture Production Tax Credit are offered in addition to other Virginia production incentives. For additional information regarding all available funding assistance for Virginia productions, please refer to the Virginia Film Office's website (<http://FilmVirginia.org>).

### **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](http://www.tax.virginia.gov) or call 804-367-8037 to obtain this form.