

DEPARTMENT OF TAXATION

2016 Fiscal Impact Statement

1. **Patron** David E. Yancey

2. **Bill Number** HB 186

3. **Committee** Passed House and Senate

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Income Tax; Extension of Port-Related Tax Credits.

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would extend the expiration date of the International Trade Facility Tax Credit, the Barge and Rail Usage Tax Credit, and the Port Volume Increase Tax Credit from January 1, 2017 to January 1, 2022. The Tax Commissioner would not be permitted to issue these tax credits subsequent to the Commonwealth's fiscal year ending June 30, 2022.

This bill also would remove obsolete language.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact.** (See Line 8).

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") and the Virginia Port Authority consider implementation of this bill as routine, and do not require additional funding.

Revenue Impact

Because the extension of the sunset date for these tax credits is assumed in the official General Fund revenue forecast, this bill would have no impact on General Fund revenue.

9. **Specific agency or political subdivisions affected:**

Department of Taxation
Virginia Port Authority

10. **Technical amendment necessary:** No.

11. Other comments:

Barge and Rail Usage Tax Credit

Virginia currently allows three port-related tax credits. The Barge and Rail Usage Tax Credit is an income tax credit for transporting additional containers on a barge or by rail. The amount of the credit for any international trade facility is equal to \$25 per 20-foot equivalent unit (TEU) moved by barge or rail rather than by trucks or other motor vehicles on Virginia's highways.

To receive the Barge and Rail Usage Tax Credit, an international trade facility is required to apply to the Department. No more than \$500,000 in tax credits may be issued in any fiscal year. Taxpayers may 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.

The table below provides information regarding the total number and amount of credit applications approved for Taxable Years 2012 through 2014.

Barge & Rail Usage Tax Credit Application Statistics (TY 2012-2014)				
Taxable Year	Number of Applications Approved	Total Amount Approved	Annual Cap Amount	Proration Factor
TY 2012	8	\$62,850	\$1,500,000	100%
TY 2013	9	\$650,575	\$1,500,000	100%
TY 2014	Fewer than 4	\$13,125	\$500,000	100%

The Barge and Rail Usage Tax Credit is effective for taxable years beginning on and after January 1, 2011, but before January 1, 2017. Under current law, no tax credits may be issued after the fiscal year ending June 30, 2017.

International Trade Facility Tax Credit

The International Trade Facility Tax Credit is an individual and corporate income tax credit for either capital investment in an international trade facility or increasing jobs related to an international trade facility. The amount of the credit is equal to \$3,500 per new qualified full-time employee that results from increased qualified trade activities by the taxpayer or two percent of the amount of capital investment made by the taxpayer to facilitate the increased eligible trade activities. Taxpayers may elect either credit, but cannot claim both credits in the same taxable year.

To receive the International Trade Facility Tax Credit, taxpayers must apply to the Department. This credit is capped at \$1,250,000 annually. If the amount of tax credits requested exceeds \$1,250,000, the credits must be allocated proportionately among all qualified taxpayers. The amount of the credit is limited to fifty percent of the taxpayer's tax liability for the taxable year. Any unused credit amount may be carried forward for ten years. If the number of qualified full-time employees in any of the five years succeeding the credit year decreases below the average number of qualified full-time employees employed during the credit year, the credit is subject to recapture.

The table below provides information regarding the total number and amount of credit applications approved for Taxable Years 2011 through 2014.

International Trade Facility Tax Credit Application Statistics (TY 2011-2014)						
Taxable Year	Number of Applications Approved	Total Amount Approved	Annual Cap Amount	Proration Factor	Jobs Created	Capital Expenditures
TY 2011	Fewer than 4	\$170,291	\$250,000	100%	21	\$6,189,583
TY 2012	6	\$473,185	\$250,000	52.83%	0	\$23,659,252
TY 2013	7	\$501,071	\$250,000	49.89%	26	\$20,795,807
TY 2014	6	\$495,473	\$1,250,000	100%	22	\$20,923,663

The International Trade Facility Tax Credit is effective for taxable years beginning on and after January 1, 2011, but before January 1, 2017. Under current law, no credits may be issued after the fiscal year ending June 30, 2017.

Port Volume Increase Tax Credit

The Port Volume Increase Tax Credit is an individual and corporate income tax credit for taxpayers engaged in manufacturing goods or the distribution of manufactured goods that use Virginia port facilities and increase port cargo volume at such facilities by five percent in a single calendar year over base year port cargo volume. The Virginia Port Authority may waive the requirement that port cargo volume be increased by a minimum of five percent over base year port cargo volume for any taxpayer that qualifies as a major facility. The table below provides information regarding the total number and amount of credit applications approved for Taxable Years 2011 through 2014.

Port Volume Increase Tax Credit Application Statistics (TY 2011-2014)				
Taxable Year	Number of Applications Approved	Total Amount Approved	Annual Cap Amount	Proration Factor
TY 2011	5	\$228,000	\$3,200,000	100%
TY 2012	17	\$1,745,250	\$3,200,000	100%
TY 2013	30	\$3,612,800	\$3,200,000	88.57%
TY 2014	21	\$4,160,550	\$3,200,000	76.91%

The Port Volume Increase Tax Credit is capped at \$3.2 million annually. To receive this credit, taxpayers must apply to the Virginia Port Authority. The credit is effective for taxable years beginning on and after January 1, 2011, but before January 1, 2017.

Proposed Legislation

This bill would extend the expiration date of the International Trade Facility Tax Credit, the Barge and Rail Usage Tax Credit, and the Port Volume Increase Tax Credit from January 1, 2017 to January 1, 2022. The Tax Commissioner would not be permitted to issue these tax credits subsequent to the Commonwealth's fiscal year ending June 30, 2022.

This bill also would remove obsolete language. Such language refers to a code section that previously allowed taxpayers to claim an increased International Trade Facility Tax Credit amount, to the extent funding was available. The requisite funding was never provided and, for this reason, the provision was eliminated from the law in 2014.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/25/2016 MTH
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