

DEPARTMENT OF TAXATION

2021 Fiscal Impact Statement

1. **Patron** Lionell Spruill, Sr.

2. **Bill Number** SB 1158

3. **Committee** Senate Finance and Appropriations

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Port of Virginia Tax Credits; Sunset.

Second House:

 In Committee

 Substitute

 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, 2022 to January 1, 2025. This bill would also extend the transferability of Port Volume Increase Tax Credits to credits issued in taxable years beginning before January 1, 2025.

If enacted during the regular session of the 2021 General Assembly, this bill would become effective July 1, 2021.

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

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

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

Because the extension of the sunset dates for these 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:

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 credit is effective for taxable years beginning on and after January 1, 2011, but before January 1, 2022.

For Fiscal Years 2011 through 2020 the International Trade Facility Tax Credit was claimed by taxpayers as follows:

International Trade Facility Tax Credit		
Year	Number of Returns	Amount
2013	fewer than 4	\$170,291
2014	16	\$159,851
2015	13	\$146,096
2016	66	\$255,692
2017	9	\$315,330
2018	9	\$290,440
2019	7	\$917,637
2020	6	\$83,605

Barge and Rail Usage Tax Credit

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 credit is effective for taxable years beginning on and after January 1, 2011, but before January 1, 2022.

For Fiscal Years 2011 through 2020 the Barge and Rail Usage Tax Credit was claimed by taxpayers as follows:

Barge and Rail Usage Tax Credit		
Year	Number of Returns	Amount
2013	0	\$0
2014	less than 4	\$7,600
2015	less than 4	\$41,700
2016	5	\$567,568
2017	0	\$0
2018	less than 4	\$494
2019	less than 4	\$484
2020	less than 4	\$1,581

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 amount of the credit that may be allocated to a taxpayer is generally limited to \$250,000 for each calendar year. However, this limit may be increased on a pro rata basis to the extent that the annual credit cap is not fully allocated among qualifying taxpayers. If the credit exceeds the taxpayer's tax liability for the taxable year, the excess amount may be carried forward and claimed against income taxes in the next five succeeding taxable years.

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, 2022.

During the 2019 Session, the General Assembly enacted legislation allowing for this credit to be transferred in certain circumstances. Only credits issued in taxable years beginning on and after January 1, 2018, but before January 1, 2022 are currently permitted to be transferred.

For Fiscal Years 2011 through 2020 the Virginia Port Volume Increase Tax Credit was claimed by taxpayers as follows:

Virginia Port Volume Increase Tax Credit		
Year	Number of Returns	Amount
2013	fewer than 4	\$111,850
2014	14	\$362,426
2015	34	\$736,816
2016	24	\$884,066
2017	22	\$2,234,213
2018	25	\$1,804,494
2019	24	\$1,840,341
2020	32	\$1,364,332

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, 2022 to January 1, 2025. This bill would also extend the transferability of Port Volume Increase Tax Credits to credits issued in taxable years beginning before January 1, 2025.

If enacted during the regular session of the 2021 General Assembly, this bill would become effective July 1, 2021.

cc : Secretary of Finance

Date: 1/18/2021 JLOF
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