

# DEPARTMENT OF TAXATION

## 2017 Fiscal Impact Statement

1. **Patron** Glen H. Sturtevant

3. **Committee** Senate Finance

4. **Title** Sunset Dates for Certain Income Tax Credits

2. **Bill Number** SB 1485

**House of Origin:**

X **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill would impose a January 1, 2022 sunset date on certain income tax credits that are not currently subject to a sunset date.

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 Cost

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

Revenue Impact

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

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

Department of Taxation

**10. Technical amendment necessary:** Yes.

During the 2013 Session, the General Assembly enacted Senate Bill 1296, which deems any credits that have not been claimed within the five preceding calendar years obsolete, and precludes the Department from permitting taxpayers to claim such credits. In 2013, the Day-Care Facility Investment Tax Credit and Temporary Assistance for Needy Families Tax Credit were deemed obsolete because no taxpayers had claimed such credits for the five preceding taxable years. Therefore, taxpayers are not permitted to claim such credits for taxable years beginning on or after January 1, 2014. Because the Day-Care Facility Investment Tax Credit

and Temporary Assistance for Needy Families Tax Credit have already been deemed obsolete, it is unnecessary to place sunset dates on such credits. The Department recommends the following technical amendments:

Page 8, Line, beginning of line  
Strike: Lines 444 through 473

Page 9, Line, beginning of line  
Strike: Lines 508 through 540

## 11. Other comments:

### Credit Sunset Dates

Virginia currently allows 33 income tax credits. Of these credits, 15 are currently subject to sunset date provisions:

<b>Credit</b>	<b>Sunset Date</b>
Barge and Rail Usage Tax Credit	December 31, 2021
Enterprise Zone Act Tax Credit	June 30, 2019
Enterprise Zone Real Property Investment Tax Credit	June 30, 2019
Education Improvement Scholarships Tax Credit	December 31, 2027
Food Crop Donation Tax Credit	December 31, 2021
Green Job Creation Tax Credit	December 31, 2017
International Trade Facility Tax Credit	December 31, 2021
Major Business Facility Job Tax Credit	December 31, 2019
Major Research and Development Expenses Tax Credit	December 31, 2021
Motion Picture Production Tax Credit	December 31, 2018
Neighborhood Assistance Act Tax Credit	June 30, 2028
Port Volume Increase Tax Credit	December 31, 2021
Recyclable Materials Processing Equipment Tax Credit	December 31, 2019
Research and Development Expenses Tax Credit	December 31, 2021
Worker Retraining Tax Credit	December 31, 2017

### Certain Tax Credits Not Subject to a Sunset Date

#### *Agricultural Best Management Practices Tax Credit*

A taxpayer that has a soil conservation plan approved by the local Soil and Water Conservation District may claim an individual income tax or corporate income tax credit in an amount equal to 25 percent of the first \$70,000 expended by such taxpayer for agricultural best management practices. For an individual to claim this credit, such taxpayer must be engaged in agricultural production for market or have equines that create the need for agricultural best management practices to reduce nonpoint source pollutants. For a corporation to claim this credit, it must be engaged in agricultural production for market. This

credit is refundable for individuals only. This tax credit is not subject to an annual credit cap, but taxpayers are limited to a credit of \$17,500 per taxable year.

#### *Biodiesel and Green Diesel Fuels Producers Tax Credit*

Virginia allows a taxpayer that is a biodiesel fuel or green diesel fuel producer may claim a credit against the individual income tax or corporate income tax in an amount equal to \$0.01 per gallon of biodiesel or green diesel fuels produced by such taxpayer. A taxpayer may only claim the credit for the first three years in which they produced biodiesel or green diesel fuels. Taxpayers are limited to a credit of \$5,000 per taxable year.

#### *Communities of Opportunity Tax Credit*

A landlord renting a qualified housing unit located in census tracts with poverty rates of less than 10 percent in the Richmond Metropolitan Statistical Area who participates in the Housing Choice Voucher program may claim an individual income tax or corporate income tax credit in an amount equal to 10 percent of the fair market value of the rent for such unit. This credit is subject to an annual credit cap of \$250,000.

#### *Conservation Tillage Equipment Tax Credit*

Virginia allows a taxpayer to claim a credit against the individual income tax or corporate income tax in an amount equal to 25 percent of all expenditures made for the purchase and installation of conservation tillage equipment used in agricultural production by the purchaser. This tax credit is not subject to an annual credit cap, but taxpayers are limited to a credit of \$4,000 per taxable year.

#### *Day-Care Facility Investment Tax Credit*

For taxable years beginning on and after January 1, 1997, but before January 1, 2014, taxpayers were permitted to claim an individual or corporate income tax credit in an amount equal to 25 percent of all expenditures paid or incurred by such taxpayer to establish a child day-care facility to be used primarily by the children of such taxpayer's employees. The credit was subject to an annual credit cap of \$100,000, and taxpayers were limited to a credit of 25,000.

The Day-Care Facility Investment Tax Credit was not subject to a statutory sunset date. However, the credit was deemed obsolete during 2013 because no taxpayers claimed the credit for the five preceding taxable years. Therefore, taxpayers are not permitted to claim the credit for taxable years beginning on or after January 1, 2014, unless expressly authorized to do so in the future by the General Assembly.

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

Any Virginia farm winery or vineyard may claim a credit against the individual income tax or corporate income tax in an amount equal to 25 percent of qualified capital expenditures made in connection with the establishment of a new Virginia farm winery or vineyards, and capital improvements made to existing Virginia farm wineries or vineyards. The credit is subject to an annual credit cap of \$250,000.

### *Historic Rehabilitation Tax Credit*

Virginia allows a credit in an amount equal to 25 percent of the eligible expenses incurred in the rehabilitation of a certified historic structure. Such credit may be claimed against the individual income tax, tax imposed on estates and trusts, corporation income tax, bank franchise tax, insurance premiums license tax, and tax imposed on certain public service corporations.

### *Livable Home Tax Credit*

An individual may claim a credit against the individual income tax for a portion of the total purchase price paid for a new residence or the total amount expended to retrofit an existing residence. A licensed contractor may claim a credit against the individual income tax or corporate income tax for a portion of the total amount it expended in constructing a new residential structure or renovating an existing residential structure or unit. The amount of the credit may not exceed (i) \$5,000 for the purchase of each new residence or construction of each new residential structure or unit, or (ii) 50 percent of the total amount expended, but not to exceed \$5,000, for the retrofitting or renovation of each existing residence or residential structure or unit.

### *Precision Fertilizer and Pesticide Application Equipment Tax Credit*

An individual engaged in agricultural production for market who has a nutrient management plan in place approved by the Soil and Water Conservation may claim an individual income tax credit in an amount equal to 25 percent of all expenditures made for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application. Individuals are limited to a credit of \$3,750 per taxable year.

A corporation engaged in agricultural production for market that has in place a soil conservation plan approved by the local Soil and Water Conservation District may claim a corporate income tax credit in an amount equal to 25 percent of the first \$70,000 expended for agricultural best management practices by the corporation. Corporations are limited to a credit of \$17,500 per taxable year.

### *Qualified Equity and Subordinated Debt Investments Tax Credit*

A taxpayer may claim a credit in an amount equal to 50 percent of a taxpayer's equity or subordinated debt investments in certain high technology businesses. The credit may be claimed against the individual income tax or the income tax imposed on trusts and estates. The credit is subject to an annual credit cap of \$5 million, and taxpayers may claim up to \$50,000 of credits per taxable year.

### *Riparian Waterway Buffer Tax Credit*

Virginia allows taxpayer that owns land abutting a waterway on which timber is harvested and that forbears harvesting timber on certain portions of land near the waterway may claim a credit in an amount equal to 25 percent of the value of the timber in that portion of the land retained as a buffer. The credit may be claimed against the individual income tax or the corporate income tax. Taxpayers are limited to a credit of \$17,500.

### *Temporary Assistance for Needy Families Tax Credit*

For taxable years beginning on and after January 1, 1999, but before January 1, 2014, taxpayers were permitted to claim a credit in an amount equal to 5 percent of the annual salary paid to an employee who is a Virginia resident and a recipient of Temporary Assistance for Needy Families. The credit was not allowed to exceed \$750 per qualified employee. Taxpayers were permitted to claim the credit against the individual income tax or the income tax imposed on trusts and estates.

The Temporary Assistance for Needy Families Tax Credit was not subject to a sunset date. However, the credit was deemed obsolete during 2013 because no taxpayers claimed the credit for the five preceding taxable years. Therefore, taxpayers are not permitted to claim the credit for taxable years beginning on or after January 1, 2014, unless expressly authorized to do so in the future by the General Assembly.

### *Vehicle Emissions Testing Equipment Credit*

A taxpayer may claim a credit in an amount equal to 20 percent of the purchase or lease price paid during the taxable year for equipment certified by the Department of Environmental Quality for vehicle emissions testing, located within, or within any county, city or town adjacent to, any county, city or town wherein implementation of an enhanced vehicle emissions inspection program. This credit may be claimed against the individual income tax, corporate income tax, and tax that is imposed on public service corporations.

Taxpayers were permitted to claim an additional amount of credits equal to 10 percent of the federal deduction for clean-fuel vehicles and certain refueling property, or 10 percent of the costs used to compute the federal credit for certain plug-in electric vehicles. However, the deduction expired for taxable years beginning after December 31, 2005, and the credit expired for taxable years beginning after December 31, 2011.

### *Waste Motor Oil Burning Equipment Tax Credit*

A taxpayer that operates a business facility within Virginia that accepts waste motor oil from the public may claim an individual income tax or corporate income tax credit in an amount equal to 50 percent of the purchase price paid during the taxable year for equipment used exclusively for burning waste motor oil at the business facility. Taxpayers are limited to a credit of \$5,000 per taxable year.

### Proposed Legislation

This bill would impose a January 1, 2022 sunset date on certain income tax credits that are not currently subject to a sunset date. The following credits would be subject to the sunset date imposed by this bill:

- Agricultural Best Management Practices Tax Credit;
- Biodiesel and Green Diesel Fuels Producers Tax Credit;
- Communities of Opportunity Tax Credit;
- Conservation Tillage Equipment Tax Credit;
- Day-Care Facility Investment Tax Credit;
- Farm Wineries and Vineyards Tax Credit;

- Historic Rehabilitation Tax Credit;
- Livable Home Tax Credit;
- Precision Fertilizer and Pesticide Application Equipment Tax Credit;
- Qualified Equity and Subordinated Debt Investments Tax Credit;
- Riparian Waterway Buffer Tax Credit;
- Temporary Assistance for Needy Families Tax Credit;
- Vehicle Emissions Testing Equipment Credit; and
- Waste Motor Oil Burning Equipment Tax Credit.

Section 3-5.14 of the 2016 Appropriations Act provides that the General Assembly may not advance the sunset date for any existing income tax credit or sales tax exemption beyond June 30, 2022. Any new income tax credit or sales tax exemption enacted by the General Assembly prior to the 2021 Session must have a sunset date not later than June 30, 2022. This requirement does not apply to sales tax exemptions related to nonprofit entities or to income tax credits or sales tax exemptions with sunset dates after June 30, 2022 that were enacted or advanced during the 2016 Session.

The effective date of this bill is not specified.

#### Similar Bills

**Senate Bill 1540** would phase out the Historic Rehabilitation Tax Credit, Research and Development Expenses Tax Credit, Major Research and Development Expenses Tax Credit, and Land Preservation Tax Credit by gradually decreasing the annual credit caps for each credit until such credits expire for taxable years beginning on or after January 1, 2027.

cc : Secretary of Finance

Date: 1/26/2017 MTH  
SB1485F161