23 VAC 10-120. CORPORATION INCOME TAX

~~23 VAC 10-120-85. Telecommunications company income tax credit.~~

~~A. In general. If a telecommunications company is subject to the corporation income tax under §58.1-400 of the Code of Virginia because its corporation income tax exceeds the minimum tax under §58.1-400.1 of the Code of Virginia, the telecommunications company may be eligible for a credit against the corporation income tax. This credit is only applicable when the corporation income tax exceeds 1.3% of the gross receipts of the company. The amount of credit available against the corporation income tax will be phased out over a ten-year period from 1989 through 1998.~~

~~B. Determination of gross receipt. For each taxable year, the telecommunications company income tax credit is computed on the gross receipts of such company for the calendar year which ends during the taxable year.~~

~~If a company files an income tax return for a period of less than 12 months, the telecommunications company income tax credit is computed with reference to the gross receipts for the calendar year which ends during the taxable period. If no calendar year ends during the taxable period, the telecommunications company income tax credit is computed with reference to the gross receipts of the most recent calendar year which ended before the taxable period.~~

~~For taxable years that begin before January 1, 1989, include January 1, 1989, and end before December 31, 1989, the credit is computed with reference to the gross receipts received during calendar year 1988 (prorated by the number of months in the taxable period divided by 12). The credit rate applicable to taxable year 1989 shall be used.~~

~~EXAMPLE 1: If Company A's taxable year begins on April 1, 1990, and ends March 30, 1991, the telecommunication company income tax credit for taxable year 1990 would be computed on the gross receipts for calendar year 1990.~~

~~EXAMPLE 2: Company B, a calendar year filer, goes out of business on April 30, 1992. For federal income tax purposes, its taxable year begins on January 1, 1992, and ends on April 30, 1992. Its telecommunications company income tax credit for taxable year 1992 would be computed on the gross receipts for calendar year 1991.~~

~~C. Credit amount. As set forth in §58.1-434 of the Code of Virginia, the following credit is allowable to telecommunications companies to offset the tax imposed under §58.1-400 of the Code of Virginia:~~

~~Taxable Year:~~	~~Tax Credit~~
~~1989~~	~~80% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.~~
~~1990~~	~~70% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.~~
~~1991~~	~~60% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.~~
~~1992 and 1993~~	~~50% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.~~
~~1994~~	~~40% of the amount by which the tax imposed by § 58.1-400 exceeds~~

~~1.3% of gross receipts.~~

~~1995 and 30% of the amount by which the tax imposed by § 58.1-400 exceeds~~

~~1996 1.3% of gross receipts.~~

~~1997 20% of the amount by which the tax imposed by § 58.1-400 exceeds~~

~~1.3% of gross receipts.~~

~~1998 10% of the amount by which the tax imposed by § 58.1-400 exceeds~~

~~1.3% of gross receipts.~~

~~EXAMPLE: For taxable year 1991, Telecommunications Company (TC) files its federal income tax return on a fiscal year basis for the year beginning July 1, 1991, and ending June 30, 1992. For calendar year 1991 TC has gross receipts of $100,000. Its corporate income tax for taxable year 1991 is $1,400 and its minimum tax is $1,000 ($100,000 X 1.0%). Since its corporate income tax exceeds its minimum tax, TC is subject to the corporate income tax. Because TC is subject to the corporate income tax, not the minimum tax, and because its corporate income tax exceeds 1.3% of its gross receipts, TC is eligible to claim a credit equal to 60% of the amount by which the corporate income tax exceeds 1.3% of gross receipts.~~

~~Corporate Income Tax $1,400~~

~~1.3% of Gross Receipts 1,300~~

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~~Credit Base 100~~

~~Credit Percentage for 1991 x 60%~~

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~~Corporate Income Tax Credit $60~~

~~Corporate Tax Before Credit $1,400~~

~~Less Credit - 60~~

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~~Net Tax Due $1,340~~

~~D. Short taxable periods. If the income tax return is filed for a taxable period of less than 12 months, the gross receipts used to compute the credit shall be prorated by the number of months in the taxable period divided by 12.~~

~~EXAMPLE: Telecommunications Company (TC) goes out of business on December 31, 1991, and files a short taxable period return for the period beginning July 1, 1991, and ending December 31, 1991. For calendar year 1991 TC has gross receipts of $100,000. Its corporate income tax for taxable year 1991 is $700 and its minimum is $500 ($100,000 X 1.0% X 6/12). Since its corporate tax exceeds its minimum tax, TC is subject to the corporate income tax. Because TC is subject to the corporate income tax, not the minimum tax, and because its corporate income tax exceeds 1.3% of its gross receipts, TC is eligible to claim a credit equal to 60% of the amount by which the corporate income tax exceeds 1.3% of gross receipts.~~

~~The credit and tax due are computed as follows:~~

~~Corporate Income Tax $700~~

~~1.3% of Gross Receipts* 650~~

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~~Credit Base 50~~

~~Credit Percentage for 1991 x 60%~~

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~~Allowable Credit $ 30~~

~~Corporate Tax Before Credit $700~~

~~Less Credit - 30~~

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~~Net Tax Due $670~~

~~* $100,000 x 6/12 x 1.3%= $650~~

~~E. Limitation of credit.~~

~~1. If a company is subject to the minimum tax in a taxable year, it will not be eligible for a telecommunications company income tax credit in such year.~~

~~2. The amount of credit allowed in any taxable year may not exceed the actual income tax liability for such year. Any excess credit for a taxable year may not be carried over to another taxable year to be used to offset the tax liability in another year.~~

~~3. This credit shall be applied against the income tax liability prior to any other credits which may be applicable against the corporation income tax.~~

~~23 VAC 10-120-87. Telecommunications companies; transitional rule for initial fiscal year.~~

~~The license tax administered by the SCC is computed on the gross receipts for a calendar year basis regardless of the taxable year used for filing federal income tax returns. Tax year 1989, which subjects the gross receipts earned during calendar year 1988 to the license tax, is the last tax year telecommunications companies are subject to the license tax. Therefore, any telecommunications company which has a taxable year for federal income tax purposes that begins before January 1, 1989, includes January 1, 1989, and ends on a day other than December 31, 1989, must file a transitional short taxable year Virginia corporation income tax return to report the income earned after December 31, 1989, and before the first day of their fiscal year 1989 period.~~

~~To determine which tax the company must pay, the company must compute the corporate income tax on the company's income for the 12-month fiscal year and the minimum tax on the company's gross receipts for calendar year 1988. To compute the tax due on the transitional taxable year return, the tax (either the corporate income tax less any applicable credit or the minimum tax) may be prorated based upon the number of months of the 12-month fiscal year included in calendar year 1989.~~

~~23 VAC 10-120-340. Several liability of affiliated corporations.~~

~~A. Each affiliated corporation included in a consolidated or combined return shall be jointly and severally liable for the entire tax and any assessments of additional tax, penalty and interest for the affiliated group. The Department of Taxation may assess and collect the tax for the consolidated or combined group against any one or more of~~

~~the corporations included in a consolidated or combined return without regard for the tax such corporation might have owed had it filed a separate return or any other circumstances.~~

~~B. Corporations may agree among themselves as to the liability for taxes, but such agreements shall have no effect on the tax liability owed by the affiliated group or on the joint and several liability of each member of the affiliated group.~~

~~23 VAC 10-120-370. Foreign sales corporations.~~

~~A. Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:~~

~~"DISC" means a corporation which elected to be treated as a Domestic International Sales Corporation under IRC §991 before January 1, 1985, and which, under the Tax Reform Act of 1984, is required to end its taxable year on December 31, 1984, and, if it wishes, make a new election to be taxed as an interest charge DISC.~~

~~"FSC" means a corporation which has elected to be treated as a Foreign Sales Corporation under IRC §927 of the Code of Virginia.~~

~~"Interest charge DISC" means a corporation which has elected to be treated as a Domestic International Sales Corporation under IRC §992 of the Code of Virginia.~~

~~"Small FSC" means a corporation which has elected to be treated as a Small Foreign Sales Corporation under IRC §927 of the Code of Virginia.~~

~~B. DISC prior to January 1, 1985. All DISC's are required by federal law to end their taxable years on December 31, 1984. Distributions of DISC income accumulated prior~~

~~to December 31, 1984 are deemed to be made from previously taxed income and are not included in the federal taxable income of the recipient.~~

~~The department has required a taxpayer owning a DISC to make an adjustment under §58.1-446 of the Code of Virginia in each year, including the taxable year ended December 31, 1984, in which the taxpayer pursuant to federal law attributed some of its taxable income to its DISC in an amount unrelated to the business done by the DISC. Therefore, no adjustments are required with respect to distributions received by a taxpayer from accumulated DISC income and excluded from the taxpayer's federal taxable income.~~

~~C. Interest charge DISC of the Code of Virginia. For transactions occurring of the Code of Virginia, a taxpayer may attribute some of its income to an interest charge DISC by using certain administrative pricing rules which expressly exempt the DISC from complying with IRC §482 (arms length pricing.) An adjustment under §58.1-446 of the Code of Virginia is required when any of a taxpayer's income is attributed to an interest charge DISC in an amount unrelated to the business done by the interest charge DISC. The adjustment is required with respect to any interest charge DISC which conducts no business or which does conduct business but such business activity is unrelated to the amount of the taxpayer's income attributed to the interest charge DISC.~~

~~When an adjustment under §58.1-446 of the Code of Virginia is required, the adjustment will be based upon consolidation of the interest charge DISC with the~~

~~taxpayer unless the taxpayer shows to the satisfaction of the Tax Commissioner that some other method of computing the adjustment is more equitable.~~

~~23 VAC 10-120-450. Where declarations filed and how payments made.~~

~~The declaration of estimated tax and all installments shall be mailed to the Department of Taxation, P.O. Box 1500, Richmond, VA 23212.~~