COMMONWEALTH of VIRGINIA

Department of Taxation

MEMORANDUM

TO: James Ingraham
Capped Credit Unit
Office of Customer Services

FROM: Howard T. Macrae, Jr.
Assistant Tax Commissioner
Office of Tax Policy

SUBJECT: Capped Credits Unit Questions-Home Accessibility Features for the Disabled Tax Credit (Code of Virginia § 58.1-339.7)

DATE: September 29, 2000

Cathy Early and you have requested the assistance of this office on several questions that have arisen in the Capped Credit Unit's processing of applications, under the above-referenced legislation, for a retrofitting expense tax credit for qualified expenses incurred in taxable year 2000:

Question No. 1.

Section 58.1-339.7 (A) uses the terms "a residence", and does not include a restrictive modifier such as "a principal residence." Is the intent to allow this tax credit for the retrofitting of more than one residence?

A: Yes. However, Section 58.1-339.7 (B) limits the amount of the tax credit that may be taken in the taxable year in which the home accessibility features are completed to $ 500 or the total amount of income tax liability, whichever is less, regardless of the number of residences an individual may retrofit in a taxable year.

Question No. 2

Suppose an individual other than the individual owning or maintaining the residence completes the retrofitting, whether by himself or by hiring a third party, and pays that retrofitting expense. Would that individual be eligible to claim the tax credit?

A: Yes. The individual does not have to be a resident of the retrofitted residence in order to claim the tax credit for the work completed and the related expense. However, this tax credit is designed to be claimed **by individual taxpayers only**, and is not available Memorandum to a business taxpayer.

The contractor, in the example Cathy Early and George Parsons discussed by telephone, who, at his firm's own expense, volunteers to complete this type work in homes maintained by elderly members of his church who have insufficient financial means to pay for the work themselves on their homes would not qualify as an eligible taxpayer to claim this credit for the retrofitting expenses his firm incurs.

Question No. 3

Assume an individual incurs total qualified retrofitting expenses of $ 10,000 in completing the work in a taxable year. What amount of tax credit may he claim for that taxable year and for any carryover years?

A: Section 58.1-339.7(A) entitles that individual to a $2,500 credit (25% x $ 10,000). But Section 58.1-339.7(B) allows such an individual to earn and claim on his return for the taxable year in which the work is completed a maximum $ 500 credit.

Question No. 4

How is the proration computed in the event applications for the credit exceed $ 1 million in any taxable year?

A: Section 58.1-339.7(C)'s proration procedure operates in basically the same manner as the proration procedure in Section 58.1-339.4(G) for the Qualified Equity and Subordinated Debt Investments Tax Credit, but there are significant differences. The small business investment legislation provides for proration in the event the amount of credits for which requests are made exceeds the available amounts of credits ($5 million) in any one calendar year. The home accessibility features legislation, by contrast, provides that "........the total amount of tax credits granted under this section shall not exceed $1 million" (emphasis supplied).

EXAMPLE NO. 1
SMALL BUSINESS INVESTMENT CREDIT

In a small business investment credit scenario, assume investor Smith makes a $100,000 gross investment in a calendar year in a qualified business, and has Virginia income tax payable of $ 20,000. 50% of the gross $100,000 investment, or $ 50,000, is allowed investor Smith as a requested credit. If the total of all such requested credits is $10.5 million (the maximum available credits being $5 million), investor Smith receives 47.6% of the requested credit, or $ 23,800, as the prorated credit. In like manner, all other approved applicants in that proration pool receive 47.6% of their requested credits.

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EXAMPLE NO.2
HOME ACCESSIBILITY FEATURES PRORATION

Assume that applicant Jones's total retrofitting expenses incurred in a taxable year amount to $ 3,000, and Virginia income tax payable is $ 3,000. Applicant Jones is entitled to a credit of 25% of total retrofitting expenses, or $ 750, as an allowable credit. If the total of all such allowable credits of all applicants is $*1.5* million (the maximum total credits to be granted being $1 million), the applicant receives 66.67% of the $500 maximum allowable credit, or $335, as a prorated credit. All other approved applicants in the proration pool receive 66.67% of the maximum $500 credit or their 25% allowable credit amount, *whichever is less.*

If proration were not required (maximum total credits granted having been less then $1 million), applicant Jones would receive a credit of $ 500 (the maximum). All other approved applicants would receive a credit of $500 or their 25% allowable credit amount, *whichever is less*.

Question No. 5

May an individual completing qualified retrofitting work and incurring the related expense on a residence owned or maintained by a relative apply for the tax credit?

A: Yes. Section 58.1-339.7 does not disqualify such an individual, related by blood or marriage to any person owning or maintaining the residence that is retrofitted by the individual, from applying for the tax credit.

If you and Cathy Early would find it helpful to have a meeting to discuss these answers to your questions, please let us know, and we can arrange a convenient time.

c: Cathy Early
Capped Credit Unit
Lawrence E. Durbin
William J. White