

General Information

The information below does not cover all provisions of the law. For more information, go to the Department's website, www.dorn.com, select "**Business**" and click on "**Corporate Income and Franchise Tax\Corporate Income\Guidelines for Article 3A Credits**".

A. Application. To be eligible for a development zone project tax credit for qualifying contributions made in calendar year 2005, a taxpayer must file this application with the Department of Revenue **on or before April 15, 2006**. If the taxpayer makes a written request for extension of time to file this application, the due date for the application is extended until September 15, 2006. The written request for extension of time must include the taxpayer's name, social security number or federal identification number, and an authorized signature. Send the request for an extension of time to file the application to the Corporate, Excise, and Insurance Tax Division, P.O. Box 871, Raleigh, NC 27602-0871.

An application for extension of time to file an income tax return, Form D-410 or CD-419, does not extend the time for filing Form NC-480.

The tax credit may be taken for the tax year in which the application is timely filed. **Example 1.** A calendar year corporation makes a qualifying contribution in November 2005 and timely files the application on April 15, 2006. The corporation may claim the tax credit on its 2006 tax return. **Example 2.** A fiscal year corporation with a tax year beginning September 1, 2005 makes a qualifying contribution in December 2005 and timely files the application on April 15, 2006. The corporation may claim the tax credit on its 2005 tax return since April 15, 2006 falls within the corporation's 2005 tax year.

B. Limit. No credit is allowed for a contribution if the taxpayer has one of the relationships defined in IRC Section 267(b) with the development zone agency or if the taxpayer controls, is controlled by, or is under common control with an affiliate of the development zone agency. No credit is allowed if the taxpayer receives anything of value in exchange for the contribution. The credit is equal to 25% of the value of the contribution but may not exceed fifty percent (50%) of the tax against which it is claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. Any unused credit may be carried forward for the next five succeeding years. Any portion of the credit disallowed by the Department due to the annual ceiling on the credit (see below) may not be carried forward.

C. Ceiling. The total amount of all tax credits allowed for development zone contributions in a calendar year may not exceed \$4,000,000. To apply this ceiling, the Department of Revenue calculates the total credits from the applications filed. If the total amount of tax credits claimed for contributions made in a calendar year exceeds \$4,000,000, the Department allocates the \$4,000,000 among the applicants for the credit by reducing each credit proportionately. The Department then sends a letter to each applicant (on or before December 31 of the year following the calendar year in which the investment was made) stating the amount of credit the applicant may claim.

D. Certification. Development zone agencies and improvement projects must be certified with the Department of Commerce. Information on the qualifying conditions under which the Department of Commerce certifies can be obtained from the Department of Commerce.

E. Forfeiture. A taxpayer forfeits a credit allowed under this section to the extent the development zone agency uses the taxpayer's contribution for any purpose other than an improvement project. Each development zone agency certified by the Department of Commerce must file with the Department of Commerce annual financial statements audited in accordance with generally accepted accounting principles and in accordance with

Government Audit Standards developed by the Comptroller General of the United States. If the Department of Commerce determines that a development zone agency has used part or all of a contribution for any purpose other than an improvement project, the Department of Commerce notifies the Department of Revenue and the taxpayer who made the contribution of the forfeiture and of the amount forfeited.

F. Definitions. The following definitions apply:

1. Community development corporation - A nonprofit corporation that meets all of the following conditions:

- a. It is chartered pursuant to Chapter 55A of the North Carolina General Statutes and is tax-exempt pursuant to IRC Section 501(c)(3).
- b. Its primary mission is to develop and improve low-income communities and neighborhoods through economic and related development.
- c. Its activities and decisions are initiated, managed, and controlled by the constituents of these local communities.
- d. Its primary function is to act as deal maker and packager of projects and activities that will increase its constituency's opportunities to become owners, managers, and producers of small businesses, to obtain affordable housing, and to obtain jobs designed to produce positive cash flow and curb blight in the targeted community.

2. Community development purpose - A purpose for which a city is authorized to expend funds under North Carolina General Statutes 160A-456, 160A-457, or 160A-457.2.

3. Control - A person controls an entity if the person owns, directly or indirectly, more than ten percent (10%) of the voting securities of that entity.

4. Development Zone Agency - Any of the following agencies that the Department of Commerce certifies will undertake an improvement project in a development zone:

- a. A community-based development organization qualified under 24 C.F.R. Section 570.204 to receive community development block grant funds.
- b. An agency designated as a community action agency pursuant to Section 210 of the Economic Opportunity Act of 1964.
- c. A community development corporation.
- d. A community development financial institution certified by the United States Department of Treasury under the Community Development Banking and Financial Institutions Act of 1994.
- e. A community housing development organization qualified under the HOME Investment Partnership Act.
- f. A local housing authority created under Article 1 of Chapter 157 of the North Carolina General Statutes.

5. Improvement project - A project to construct or improve real property for community development purposes or to acquire real property and convert it for community development purposes.