



DEPARTMENT  
*of* REVENUE

# TAX CREDITS AND EXEMPTIONS 101

2023 Joint Tax Credit Review Panel

June 14, 2023

# OUR AGENDA

- Introductions
- Tax Credit Review
- Tax Exemption Review
- Questions

# JOINING US

1

Frank O'Connell, State Revenue  
Commissioner

2

Chester Cook, Deputy State Revenue  
Commissioner

3

Kelsey Finn, Director of Income Tax Policy

4

Austin Gibbons, Director of External Affairs  
and Communications

5

Charles Elrod, Senior Managing Attorney for  
Tax Operations

6

Joe Snowden, Legislative and Legal Affairs  
Specialist






# INCOME TAX CREDITS

Kelsey Finn, Director of Income Tax Policy  
Office of Tax Policy

# 50+ CREDITS ADMINISTERED

- |   |   |  |   |
|---|---|--|---|
| 102. Employer’s Credit for Approved Employee Retraining                     | 120. New Manufacturing Facilities Property Credit                                 | 139. <b>Small Postproduction Film Tax Credit</b>                                     | 201. Disabled Person Home Purchase or Retrofit Credit   |
| 103. Employer’s Job Tax Credit  | 121. <b>Historic Rehabilitation Credit for Historic Homes</b>                     | 140. Qualified Education Donation Tax Credit   | 202. Child and Dependent Care Expense Credit            |
| 104. Employer’s Credit for Purchasing Child Care Property                   | 122. Film Tax Credit  | 141. <b>Musical Tax Credit</b>   | 203. Georgia National Guard/Air National Guard Credit   |
| 105. Employer’s Credit for Providing or Sponsoring Child Care for Employees | 124. Land Conservation Credit   | 142. Rural Zone Tax Credits  | 204. Qualified Caregiving Expense Credit                |
| 106. Manufacturer’s Investment Tax Credit                                   | 125. Qualified Education Expense Credit   | 143. Agribusiness and Rural Jobs Tax Credit  | 206. Disaster Assistance Credit                         |
| 107. Optional Investment Tax Credit   | 126. Seed-Capital Fund Credit   | 144. Post-Consumer Waste Materials Tax Credit  | 207. Rural Physicians Credit                            |
| 108. <b>Qualified Transportation Credit</b>                                 | 128. <b>Wood Residuals Credit</b>   | 145. Timber Tax Credit   | 208. <b>2008-2021 Adoption Tax Credit</b>               |
| 109. Low Income Housing Credit  | 129. Qualified Health Insurance Expense Credit                                    | 146. Railroad Track Maintenance Tax Credit   | 209. <b>Eligible Single-Family Residence Tax Credit</b> |
| 111. <b>Business Enterprise Vehicle Credit</b>                              | 130. Quality Jobs Tax Credit  | 147. PPE Manufacturer Job Tax Credit   | 210. Other States Tax Credit                            |
| 112. Research Tax Credit  | 131. Alternate Port Activity Tax Credit   | 148. Life Sciences Manufacturing Job Tax Credit                                      | 211. Low Income Tax Credit                              |
| 113. <b>Headquarters Tax Credit</b>   | 132. Qualified Investor Tax Credit  | 150. Qualified Law Enforcement Donation Credit                                       | 212. Community Based Faculty Preceptor Tax Credit       |
| 114. Port Activity Tax Credit for Port Activity Job Tax Credit              | 133. Film Tax Credit for a Qualified Interactive Entertainment Production Company | 151. Qualified Foster Care Support Organization Credit                               | 213. Post-2021 Adoption Tax Credit                      |
| 115. Bank Tax Credit  | 135. <b>Historic Rehabilitation Tax Credit for Other Certified Structures</b>     | 152. Historic Rehabilitation Credit for Historic Homes (2023 and 2024)               |   |
| 116. <b>Low Emission Vehicle Credit</b>                                     | 136. Qualified Rural Hospital Organization Expense Tax Credit                     | 153. Historic Rehabilitation Credit for Other Certified Structures 2023 through 2027 |   |
| 117. <b>Zero Emission Vehicle Credit</b>                                    | 137. <b>Qualified Parolee Jobs Tax Credit</b>                                     |  |   |
| 118. New Facilities Jobs Credit   | 138. <b>Postproduction Film Tax Credit</b>  |  |   |
| 119. Electric Vehicle Charger Credit  |   |  |   |

	Never used
	Sunsetted, still being carried forward
	Sunsetted or repealed, not being carried forward

# COMMON PROCESSES

- Pre-Approval
  - 133. Film Tax Credit for a Qualified Interactive Entertainment Production Company
  - 135. Historic Structure Rehabilitation Tax Credit
  - 136. Qualified Rural Hospital Organization Expense Tax Credit
- Transfer/Sell
  - 122. Film Tax Credit
  - 124. Land Conservation Credit
  - 133. Film Tax Credit for a Qualified Interactive Entertainment Production Company
  - 135. Historic Structure Rehabilitation Tax Credit
- Apply Against Withholding
  - 103. Employer's Job Tax Credit
  - 112. Research Tax Credit
  - 130. Quality Jobs Tax Credit
  - 135. Historic Structure Rehabilitation Tax Credit

The list above is **NOT** exhaustive. It is meant to show that a wide array of credits comes with a wide array of requirements for processing.

# CAPPED CREDITS

- **Individual/ Entity Level Cap:** annually capped for each taxpayer through a dollar value or based upon income tax liability
- **Aggregate Cap:** limits the credit to a specific appropriated amount for that tax year, split between all qualified taxpayers; generally first-come, first-serve
- **Donation Credit Cap:** Donation credits are often capped at the individual/entity level (donor) and the organization level (donee/receiving entity)
- **Preapproval:** Capped credits generally require preapproval, as it is not possible to implement a credit cap via tax returns

# PREAPPROVAL PROCESS

- **Preapproval:** Capped credits generally require preapproval, as it is not possible to implement a credit cap via tax returns
- **Preapproval Process:**
  - Generally requires taxpayer to submit an application with an estimate of what they believe they will qualify for
  - When the credit is generated, the credit amount is adjusted down to the value actually earned
  - For aggregate caps: credit is prorated on the date that the cap is met. Following that day, additional applicants are denied preapproval, even if they meet certification requirements. Many aggregate caps are met in one day.

Note: With capped preapproval credits, it is not possible to add money back to the annual pot after adjustments are made to an entity's credit. All amounts over the adjusted amount are considered lost and go unused.



# UNCAPPED CREDITS

- Uncapped credits do not have a set annual limit, but they are still limited by certification requirements.
- Limitations based upon certification requirements include:
  - Amount of investment in the state
  - # of jobs created
  - # of jobs maintained
  - Type of jobs created
  - Use of Georgia companies/vendors
  - Amount of expenses incurred in the state
  - Use of Georgia ports and transit
  - Expanding industries in the state
  - Expanding jobs, industry, or infrastructure to rural areas
  - Economic stimulus in the state
  - Bringing new career options to Georgia
  - Use or creation of specific technology
  - Offering jobs at salaries above median salary for an area

# POSSIBLE STEPS IN THE TAX CREDIT PROCESS

- **Pre-certifying:** applicant is required to meet criteria prior to moving forward with generating the credit.
- **Preapproving:** usually for capped credits, submit request through the Georgia Tax Center, first come, first serve until the cap is met.
- **Generating:** when the tax credit certificate is created
- **Allocating:** originator assigns credit amounts to related entities or shareholders on the return.
- **Utilizing:** applying a credit against tax liability on an income tax return.
- **Auditing:** pre-certified amounts are adjusted based on audit findings
  - For the film tax credit, every credit is subject to a mandatory audit prior to credit generation. The estimated amount that is pre-certified by GDEcD is adjusted by third-party auditors or GDOR auditors to reflect actual expenditures in GA. This change was made by the legislature in 2020.

**Note:** These steps do not apply to every tax credit and, even when all are applicable, the above steps may occur in a different order based upon the credit's statutory construction.

# PROCESSING TAX CREDITS

- Credit is 'Allocated' or 'Assigned'
  - Shared with partners and shareholders of an entity
  - Occurs systematically as tax returns are processed
  - Must include identifier for the entity receiving the credit
- Credit is 'Transferred'
  - Credit is sold or given to another entity/individual
    - Requires Form IT-TRANS submitted via GTC
  - Must include identifiers for the entity transferring the credit

# COMMON CHALLENGES TO ADMINISTRATION

- Pass-through entities do not always send multilevel allocations in the right order
  - Credits cannot be claimed by lower levels until the top level generates the credit
- Statute requiring that credit generation and credit claiming occur in different tax years
- Credits that become uncapped during the tax year
- Preapproval credits that are based on an estimated amount, generated prior to adjustments or allowed to be transferred, and then must be clawed back to the adjusted amount; claw-back should be associated with seller – not purchaser of credit
- Preapproval estimates - Entities estimate tax liability for preapproval at an amount above what they will qualify for/ at per entity cap, because preapproved credit amounts can only be adjusted down. Large portions of annual statutory cap go unused due to “loss”
- Staff retention



# SALES TAX EXEMPTIONS

Charles Elrod, Senior Managing Attorney for Tax Operations

# EXEMPTIONS ADMINISTERED

100+

# TYPES OF EXEMPTIONS

## ■ Product-Based Exemption

- Hearing aids
- Prescription drugs
- Oxygen
- Lottery tickets
- Girl Scout cookies
- Pre-written computer software

## ■ Organization-Based Exemptions

- Volunteer health centers
- Non-profit hospitals
- Aquariums and zoos
- University System of Georgia construction projects
- Private colleges and universities

# EXEMPTION PROCESS EXAMPLES

## ■ Refund Process for Capped Exemptions

- Tax is paid up front and reimbursed upon application and proof of documentation
  - Ex: Zoos, aquariums, and car museums

## ■ Self Help

- Taxpayer visits the DOR website to obtain an exemption certificate
  - Ex: Government entities, public colleges, sale for resale, etc.

## ■ Reporting Requirements

- When annual reports are required of DOR, DOR requires sellers to report data to us on an annual basis and, often, make annual application for their exemption
  - Ex: Community health centers, food banks, data centers

## ■ Application Based

- Taxpayer visits the DOR website, the Georgia Tax Center, or works with a CPA to apply for their sales tax exemption
  - Ex: Private colleges, food banks, high-technology exemption



# DOCUMENTATION REQUIREMENTS

- ST-5/ST-5M
- Letter of Authorization
- ST-7
- Terms of Reorganization
- Itemized customer invoice
- Transaction documentation
- Grant documentation
- Bill of Lading
- ST-W8
- ST-WD2
- Exemption Certificate
- ST-AER2
- ST-M8
- Evidence of 100% common ownership
- Prescription documentation
- Product documentation
- Food and beverage sales documentation
- ST-CE2
- Refund application only
- Aircraft registration documentation
- Major sporting event determination letter
- Certificate of permanent location with the clerk of the Superior Court



# QUESTIONS?