

# Virginia Enterprise Zones

## General Income Tax Credit Instruction Manual The Virginia Enterprise Zone Program 2008

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Department of Housing and  
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## IMPORTANT NOTICE – SUNSET OF ENTERPRISE ZONE ACT

The Enterprise Zone Act of 1982 expired on July 1, 2005 and has been replaced by the Enterprise Zone Grant Act. The new Enterprise Zone Grant Program was established during the 2005 legislative session. Businesses that have already started qualifying for the General Income Tax Credits can finish out the remainder of their incentive period provided they continue to meet the qualification requirements.

Businesses that have executed signed agreements with the Department of Housing and Community Development (DHCD) by July 1, 2005 for the usage of the General Income Tax Credits or Investment Tax Credits can begin their incentive qualification anytime after they meet the conditions of their agreement with the DHCD and the qualification requirements of the incentives. Such businesses must begin their incentive qualification prior to the expiration of their zone.

Enterprise Zone tax credits are only authorized through fiscal year 2019 and will not be available after that time.

**Businesses that have not already started their 10-year qualification period for the General Income Tax Credit or have not executed a signed agreement with DHCD are not eligible to apply for this incentive. To find out about the new enterprise zone grants that are available, please refer to the Enterprise Zone Grant Instruction Manual dated fall 2008.**

## ABOUT THIS MANUAL

This manual provides instructions for qualifying for the Enterprise Zone General Income Tax Credit. In addition to this manual, a specific qualification form is required based on the type of business applying. The forms are listed below:

Existing Business – General Income Tax Credit (Form EZ-6E)

New Business – General Income Tax Credit (Form EZ-6N)

This manual first presents general information about the process to qualify for and claim the General Income Tax Credit. This is followed by the specific qualification requirements for the General Income Tax Credit, as well as any limitations that might apply to its usage. Key definitions are provided at the end of the document and should be referred to when completing the qualification forms.

**Businesses that have not already started their 10-year qualification period for the General Income Tax Credit or have not executed a signed agreement with DHCD are not eligible to apply for this incentive. To find out about the new enterprise zone grants that are available, please refer to the Enterprise Zone Grant Instruction Manuals dated fall 2008.**

If you have any questions about qualifying for state incentives or other aspects of the program, or need forms please contact:

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Community Revitalization and Development Office  
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## STATE FISCAL LIMITATIONS ON ENTERPRISE ZONE INCENTIVES

The general income tax credits and investment tax credits are subject to an annual fiscal limit of \$7.5 million per fiscal year, which ends June 30<sup>th</sup> of every year. However, in the event that these tax credit requests exceed the Commonwealth's total annual fiscal limits of \$7.5 million, taxpayers are granted a *pro rata* amount by DHCD. Each taxpayer will receive an equitable share of tax credits.

## GENERAL INCOME TAX CREDIT QUALIFICATION PROCESS

### SUBMITTAL REQUIREMENTS

In order to qualify for Enterprise Zone incentives, the business must be located within the boundaries of a Virginia Enterprise Zone. Businesses should contact the Local Zone Administrator to verify that the business firm's establishment is located within an enterprise zone. Contact information for the Local Zone Administrator for each designated Enterprise Zone is available online at <https://dmz1.dhcd.virginia.gov/EZApplication/>.

The specific qualification requirements for the general income tax credits are discussed in this manual.

Firms must send qualification forms to DHCD by May 1<sup>st</sup> of the calendar year following the end of the tax year for which the business is seeking general income tax credits. Send original application materials using one of the following mechanisms: 1) United States Postal Service certified mail, return receipt requested and postmarked no later than May 1<sup>st</sup>; 2) UPS, Fed Ex or other services where shipping can be tracked with a shipped date no later than May 1<sup>st</sup>. Hand delivery is accepted but not preferred and must be received by DHCD by the close of business on May 1<sup>st</sup>.

1. DHCD reviews all general income tax credit applications for completeness and notifies the CPAs and business firms of any errors by June 1<sup>st</sup>. Business firms must respond to any unresolved issues by June 15<sup>th</sup>.
2. DHCD notifies firms of their qualification by June 30<sup>th</sup>. All qualified businesses are sent a Certificate of Qualification, which indicates the amount of the tax credit they may claim for that taxable year. (DHCD will also notify firms if they fail to qualify.)
3. DHCD also notifies the Commissioner, Virginia Department of Taxation or, in the case of public service companies, the Director of Public Service Taxation for the State Corporation Commission, the amount of general income tax credits the firm is certified to receive.
4. Qualified firms that are partnerships, Subchapter S Corporations, or Limited Liability Corporations must send either an electronic version of partnership or shareholder details or a completed form PTE to the Department of Taxation. This should be submitted as soon as possible after receiving qualification information from DHCD in July, but at least 30 days prior to the participants filing tax returns. The Department of Taxation will not process individual returns that claim a tax credit until the necessary tax credit information has been received from the original parent company. Appendix C outlines details about this requirement.

## CLAIMING ENTERPRISE ZONE GENERAL INCOME TAX CREDITS

General Income tax credits are claimed when the firm files its state tax return. A qualified business firm must file its Certificate of Qualification, a Virginia Tax Form 301-Enterprise Zone Credit, and a Schedule CR with its state tax return. The Department of Taxation or the State Corporation Commission will not grant the tax credits unless the firm submits its Certificate of Qualification, a Form 301, and a Schedule CR with its state tax

### Virginia Department of Taxation Pass Through Reporting Requirement

All **partnership, S-Corp or LLC parent company** must provide the Virginia Department of Taxation with the details of its partners or shareholders down to the individual taxpayer level on form PTE or electronically. Appendix C outlines the details of this requirement.

return. Form 301 and Schedule CR are available from the Department of Taxation's web site ([www.tax.virginia.gov](http://www.tax.virginia.gov)). Questions about these forms should be directed to the Taxpayer Assistance office of the Department of Taxation. Corporations should call (804) 440-2541. When a partnership, S-Corp or LLC requests a credit against State individual income tax on behalf of its partners or shareholders, each partner or shareholder must attach a copy of Form 301, Schedule CR and a copy of the firm's Certificate to its state individual income tax return. In addition, the original parent company (the business that qualified for the tax credit) must provide the Department of Taxation with details about its partners or shareholders. Appendix C outlines the details of this requirement. This information should be submitted as soon as possible after receiving qualification information from DHCD in July, but at least 30 days prior to the participants filing tax returns. The Department of Taxation will not process individual returns that claim a tax credit until the necessary tax credit information has been received from the original parent company.

## TAX CREDITS ATTRIBUTABLE TO CONDUCT OF BUSINESS WITHIN THE ZONE

The general income tax credits apply only to taxable income, net capital or gross premium receipts attributable to conduct of business within the zone. When a firm has taxable income from business activity within and outside of the enterprise zone, it must determine the amount of income attributable to the conduct of business within the zone. An overview of this process is located in Appendix B.

## GENERAL INCOME TAX CREDITS

The General Income Tax Credit allows business firms to take a substantial credit against their state income, net capital or gross premium receipts for a period of ten years. The credit is equal to 80 percent of the firm's tax liability in year 1 and 60 percent in years 2 through 10. **Businesses must have started their qualification period for a tax-year ending prior to or on December 31, 2004. "Large qualified business firms" that have not begun their 10-year qualification period must have executed signed agreements with DHCD by July 1, 2005 and can start their qualification when they meet the conditions of their agreement. Such businesses must begin their incentive period prior to the expiration of their zone. These tax credits are only authorized through Fiscal Year 2019 and will not be available after that date.**

Businesses qualify for the General Income Tax Credit as either a new or an existing firm. A business is considered an **existing firm**, if it meets one of the following scenarios: The date the applicant began operating its business in the zone is before the date the zone was designated. (see <https://dmz1.dhcd.virginia.gov/EZApplication/>)

- The applicant was engaged in business in Virginia and relocated to a zone.
- The business was conducted in Virginia and was acquired by a new taxpayer, who is the applicant.

A business is considered a **new firm**, if it meets one of the following scenarios:

- The applicant's business was not previously conducted in Virginia and operation of it began after the zone was designated. (see <https://dmz1.dhcd.virginia.gov/EZApplication/>)
- After the zone designation date, a Virginia business opens an additional establishment or a new facility in the zone.

## QUALIFICATION REQUIREMENTS

**TO QUALIFY AS AN EXISTING BUSINESS:**

- A business must increase the average number of permanent full-time employees at the firm's zone establishment by at least 10 percent above the total average employment for the firm's zone establishment in a base year; and
- At least 25 percent of the employment increase must meet the low-income standards for the area, based on family size, or must be zone residents. (This increase must be at least 40 percent for businesses that qualified prior to July 1, 1997). Low-income limits by zone are available on the DHCD web site ([www.dhcd.virginia.gov](http://www.dhcd.virginia.gov)) or from the local enterprise zone administrator (see <https://dmz1.dhcd.virginia.gov/EZApplication/>). Low-income employees will always be considered low-income, even if their family income changes, as long as employed by the zone firm. Zone residency must be verified by the local zone administrator annually.

#### **TO QUALIFY AS A NEW BUSINESS FIRM:**

- At least 25 percent of total employment must meet the low-income standards for the area based on family size or must be zone residents. (This increase must be at least 40 percent for businesses that qualified prior to July 1, 1997.) Low-income limits by zone are available on the DHCD web site ([www.dhcd.virginia.gov](http://www.dhcd.virginia.gov)) or from the local enterprise zone administrator (see <https://dmz1.dhcd.virginia.gov/EZApplication/>). Low-income employees will always be considered low-income, even if their family income changes, as long as employed by the zone firm. Zone residency must be verified annually by the local zone administrator.

#### **SUBSEQUENT QUALIFICATION YEARS**

Firms must qualify each year of the ten-year incentive period that they wish to receive general income tax credits. Existing firms must maintain the 10 percent increase in employment each year that they seek to qualify for state incentives but are not required to increase employment by 10 percent each year.

Both new and existing firms must maintain the 25 percent (or 40 percent for businesses that qualified prior to July 1, 1997) low-income or zone resident ratio to the increase in employment. An employee must be counted as either *low-income* or a *zone resident*. If a person meets the qualifications for low-income and for being a zone resident, he can only be considered one of these.

Firms that initially qualify as a new business will continue to be considered a new business throughout their entire incentive period. They should continue to use Form EZ-6N to qualify.

#### **GENERAL LIMITATIONS**

##### **LIMIT ON RECEIVING GENERAL INCOME TAX CREDITS**

Firms may receive general income tax credits for a period of ten consecutive tax years. If a firm fails to qualify for any year during their qualification period, it forfeits the right to request state tax incentives for that year. However, the firm is still eligible to qualify for state incentives for any remaining taxable years left in the qualification period.

In addition, a firm may not qualify for the Virginia Enterprise Program longer than its original qualification period by reorganizing or changing its form in a manner that does not alter the basis of the firm's assets or result in a taxable event.

##### **PROHIBITION OF DUPLICATION OF GOVERNMENT ASSISTANCE**

A business firm may not use the same expenses to qualify for tax incentives under this program and to qualify for tax incentives under another state program such as the Neighborhood Assistance Act.

## GENERAL INCOME TAX CREDITS NOT TO EXCEED TAX LIABILITY

The state income, net capital or gross receipts tax credits claimed under the general tax credit may not exceed the business firm's income, net capital, gross or gross premium receipts liability. These tax credits are not refundable and may not be carried forward to future tax years.

## EMPLOYMENT RESTRICTIONS

The following positions cannot be included in the calculation of permanent full-time employment:

1. A seasonal, temporary, leased or contract labor position.
2. A person that was previously employed in the same job function in Virginia by a related party, or a trade or business under common control. (A person's job function that is eliminated at a non-zone location and then moved to a enterprise zone location).
3. An employee who is employed by the firm in Virginia and is transferred from outside a zone location to a zone location. In certain instances transferred employees may be included provided there is not a net loss in permanent full-time employment.
4. An employee whose previous job function previously qualified for a credit in connection with a different enterprise zone location on behalf of the taxpayer, a related party, or a trade or business under common control (cannot claim the same job twice).
5. An employee who was employed by an enterprise zone firm in the Commonwealth and the trade or business was purchased by another taxpayer.

## PART-TIME EMPLOYEES

Part-time employees may not be included in calculating permanent full time employment unless they are part of a job share program. If two or more individuals share the same position and together work the normal number of hours a week as required by the business firm for that one position, then those employees can be counted as one full-time employee.

## 1,680 HOURS-PER-YEAR EMPLOYEES

Business firms may include employees that work a minimum of 1,680 hours during the calendar year in the calculation of permanent full-time positions. However, the employee must have been hired during the tax year, worked a minimum of 1,680 hours during the tax year and received the standard fringe benefits paid by the business firm.

Employees hired to work a 1,680 hours per year position with standard fringe benefits but are employed for less than a full taxable year can be included in the average number of permanent full-time employees. The business firm must be able to show that: (i) the hours

worked by the employee for each payroll period can be averaged as a full-time employee working at least 35 hours a week during the payroll period; or, (ii) the employee can be combined with another part-time employee that worked at least 20 hours per week during the payroll period.

#### **NET LOSS IN PERMANENT FULL-TIME EMPLOYMENT**

The purpose of the Enterprise Zone program is to encourage the creation of net new employment in the state. Under some situations a firm may transfer permanent full-time employees from a non-zone facility to a zone facility that results in a reduction in the gross permanent full-time employment at the business firm's non-zone facility. This results in a net loss of employment. When that happens the transferred employees cannot be included in the calculation of the average number of full-time employees employed by the business firm within the enterprise zone unless another permanent full-time employee is hired to replace the transferred employee at the non-zone facility.

#### **DETERMINATION OF LOW-INCOME STATUS**

Low-income status is determined by the amount of the employee's family income during the 12 months prior to being employed with the zone business, not by the amount the zone business pays the employee. Low-income status verification is only required upon initial employment. (A sample income verification form is on page 30.) Low-income employees will always be considered low-income, even if their family income changes, as long as employed by the zone firm. Updated annual family income standards are available on the DHCD web site ([www.dhcd.virginia.gov](http://www.dhcd.virginia.gov)) or from the local enterprise zone administrator (see <https://dmz1.dhcd.virginia.gov/EZApplication/>). Use the income limits for the calendar year in which the employee was hired. To ease preparation of the tax credit application, business firms are advised to collect certification of income forms at the time they hire each employee.

#### **DETERMINATION OF ZONE RESIDENCY**

A zone resident is a person whose principal place of residency is located within the boundaries of any enterprise zone in Virginia. Zone residency **must be verified annually** and can be determined by the employee's address for receipt of W-2 forms or any subsequent address changes made during employment. If an employee's W-2 address is a post office box, the applicant must determine the employee's physical address before the employee can be considered a zone resident. Local zone administrators (see <https://dmz1.dhcd.virginia.gov/EZApplication/>) can verify that an employee's address is within the zone boundaries.

### **REQUIRED RECORDS**

Business firms seeking to qualify for the General Income Tax Credit should keep careful records of an employee's income status and zone residency. Determination of income status should be done at the time of hiring, even if the firm does not anticipate immediate participation in the Enterprise Zone program. Firms may have new employees complete an employee self-certification form once they are hired. A sample of the form is provided on page 26.

All firms must retain the method and information used to calculate base year employment. In addition, records of employees' zone residency must also be kept by firms whose qualification for a general tax credit includes zone residents. Keep records for a period of six years for tax audit purposes.

## SUBMISSION CHECKLIST FOR GENERAL INCOME TAX CREDITS

*The purpose of this checklist is to reduce the possibility of your application being returned to you.*

- ❑ **Only businesses that have been grandfathered into the General Income Tax Credit incentive can apply for the General Income Tax Credit. No applications will be accepted from firms trying to submit an application for their first qualification year unless they are a "large qualified business firm" that has executed a negotiated agreement letter with DHCD by July 1, 2005.**
- ❑ The applicant is a business and is located within the boundaries of a Virginia Enterprise Zone. Please confirm the location with the appropriate Local Zone Administrator as listed in Appendix A.
- ❑ Businesses firms with at least 50 employees and \$15 Million in investment ("Large qualified business firms") must have executed negotiated agreements with DHCD by July 1, 2005 and can apply for the tax credits once they make the required investment and job creation.
- ❑ The correct form is being used for the type of business, New or Existing:
  - ❑ An **EXISTING** business firm uses **EZ-6E** and either:
    - Began operation in the zone before the date that the zone was designated;
    - Or, is engaged in business in VA and relocates to the zone;
    - Or, is engaged in business in VA and is acquired by a new taxpayer.
  - ❑ A **NEW** business firm uses **EZ-6N** and either:
    - Is a business not previously conducted in VA that begins operation in a zone after the zone was designated;
    - Or, a Virginia firm that opens an additional establishment /new facility (after zone designation date) in a zone.
- ❑ Firms that use the 6N, New Business form, in the initial qualification year continue to use that form in years two through ten.
- ❑ If submitting a 6N, the firm has no net loss at the outside (non-zone) facility.
- ❑ If submitting a 6E, the firm did not count shifted or transferred employees from a non-zone facility.
- ❑ The business firm's state income tax liability is accurately reported. If, due to adjustments, the amount of actual tax liability as reported on the application

changes, the amount of credit that the qualified business firm will be eligible to receive will not exceed the amount of credit authorized by DHCD. If, as a result of adjustments, the tax liability decreases from the amount stated on the application, the qualified business firm will receive a lower credit based on the new tax liability.

- ❑ Form EZ-6E/EZ-6N has been completed and signed by both the business firm representative and an independent CPA licensed in Virginia. Provide the Virginia license number of the CPA.

#### Submitting the application

- ❑ The application **must be** either a 6N or 6E-series form and printed on 8½" x 14" paper, which is standard legal-sized paper. The minimum font size is 11 points.
- ❑ Please do not hesitate to contact DHCD at (804) 371-7030 or via e-mail at [EZONE@dhcd.virginia.gov](mailto:EZONE@dhcd.virginia.gov) with any questions you might have about how to qualify or complete the applications.

#### Remember These Tax Credit Deadlines

**May 1<sup>st</sup>** – Firm submits to DHCD.

**June 1<sup>st</sup>** – DHCD notifies firm of deficiencies.

**June 15<sup>th</sup>** – Firm resubmits, if necessary.

**June 30<sup>th</sup>** – DHCD notifies firm of qualification.

**July** – Qualified Partnerships, S-Corps, and LLCs send Taxation an electronic version of details about partners or shareholders. See Appendix C.

## STEP-BY-STEP INSTRUCTIONS FOR COMPLETING FORM EZ-6E – GENERAL INCOME TAX CREDITS FOR EXISTING BUSINESSES

Businesses that have already started qualifying for the General Income Tax Credits can finish out their incentive period provided they continue to meet the qualification requirements.

Businesses that have executed signed agreements with the Department of Housing and Community Development (DHCD) by July 1, 2005 for the usage of the General Income Tax Credits or Investment Tax Credits can begin their incentive qualification anytime after they meet the conditions of their agreement with the DHCD and the qualification requirements of the incentives. Such businesses must begin their incentive qualification prior to the expiration of their zone.

Tax credits are only authorized through fiscal year 2019 and will not be available after that time.

Note: Print form EZ-6E on 8½" x 14" paper.

### PART I: BACKGROUND INFORMATION

#### 1. Zone Name

- Indicate the zone's name, number and designation date, as listed at <https://dmz1.dhcd.virginia.gov/EZApplication/>
- Contact the local zone administrator to verify in which zone the applicant is located. (see <https://dmz1.dhcd.virginia.gov/EZApplication/> )

#### Date Business Began Operation in the Zone

- Indicate the month, day, and year the applicant started operating its business at the zone establishment.

#### 2. Business Firm Legal Name

- Indicate the applicant's legal business firm name.

#### Trading Name

- Indicate the applicant's trading name, if different than its legal name.

#### 3. Federal Employment ID# (FEIN)

- Indicate the applicant's nine digit Federal Employment Identification Number.

#### Activity #

- Indicate the three-digit activity number that applies to the applicant's business type.
- Activity numbers are listed in Appendix A.

#### 4. Principal Mailing Address

- Indicate the applicant's mailing address.
- The tax credit certificate and any related correspondence will be mailed to this address.

## **5. Physical Address of zone establishment**

- If the physical location of the applicant's business operation in the zone is different than the applicant's mailing address, indicate the physical address here.
- Check with the local zone administrator to verify that the physical address of the business is located within the zone. (see <https://dmz1.dhcd.virginia.gov/EZApplication/>)

## **6. Business Firm Contact Person**

- List the name, title, daytime phone number, and e-mail address of the employee who can answer questions about this application. This person cannot be the CPA who is certifying the application.

## **7. Parent Company**

- If the applicant is a subsidiary, list the name and federal identification number (FEIN) of the parent company.

## **8. Check the Type of Existing Business**

- This describes the applicant at the date the business began operation in the zone. If one of the choices does not apply to the applicant, contact DHCD to discuss this issue immediately via e-mail at [EZONE@dhcd.virginia.gov](mailto:EZONE@dhcd.virginia.gov) or via telephone at (804) 371-7030.
- Check the same type for each year of a business's ten-year qualification period.

## **9. Check the type of Business Organization**

- If "other" is checked, write a description.

## **10. Check the type of state tax that applies to this firm**

- Applicants who are organized as a sole proprietor, partnership, Subchapter S Corporation, or LLC, usually check "individual income tax."

## **PART II: QUALIFICATION INFORMATION**

### **1. Qualification year number**

- 2.** Check the appropriate number to indicate what year of the ten-year qualification period this application represents. **Firms other than "large qualified business firms" that have executed signed agreements with DHCD cannot initiate use (start their first qualification year) of this incentive. Businesses firms with at least 50 employees and \$15 Million in investment ("Large qualified business firms") must have executed negotiated agreements with DHCD by July 1, 2005 and can apply for the tax credits once they make the required investment and job creation.**

### **3. Qualification taxable year**

- Indicate the applicant's taxable year for which tax credits are being requested.
- List the month, day, and year of the starting date and of the ending date of the taxable year.

- Applications are due to DHCD by May 1<sup>st</sup> of the calendar year following the end date of the qualification year. If the qualification tax year end date falls between January 1 and December 31, the application is due to DHCD by May 1 of the following calendar year. For example, if the qualification tax year end date is March 30, 2008, the application is due May 1, 2009.
- Exception under §441(f) of the Internal Revenue Code: For applicants with tax years in accordance with §441(f) of the Internal Revenue Code on or before January 7 of the subsequent year, applications requesting a general income tax credit shall be submitted to the department by no later than May 1 of the subsequent calendar year. For example, if an applicant's tax year, in accordance with §441(f) of the Internal Revenue Code, ends by January 7, 2009, this application is due May 1, 2009.

#### 4. Base taxable year

- Indicate the taxable year that the applicant selected for its base year.
- List the month, day, and year of the starting date and of the ending date of this taxable year.
- This base taxable year remains the same for each of the ten years of qualification for the General Income Tax Credit.
- The base taxable year is one of the two taxable years immediately preceding the first year of qualification, at the choice of the applicant.

#### 5. Step-by-Step Employment Test Calculations

Note: "PFTE" indicates "permanent full-time employee," as defined by the Virginia Enterprise Zone Program Regulations.

### PART II, LINE 4.A. BASE YEAR – OUTSIDE THE ZONE

1. Count the total number of PFTE the applicant employed at its Virginia establishment(s) outside the zone, during each payroll period of the base year. (If the applicant did not

#### What is considered a permanent full time employee (PFTE)?

According to the Virginia Enterprise Zone Program Regulations, a "permanent full-time employee" means a person employed by a business firm who is normally scheduled to work either:

1. a minimum of thirty-five hours per week for the entire normal year of the business firm's operations, which normal year must consist of at least forty-eight weeks,
2. a minimum of thirty-five hours per week for a portion of the taxable year in which the employee was initially hired for, or transferred to the business firm, or
3. a minimum of 1,680 hours per year if the standard fringe benefits are paid by the business firm for the employee.

Permanent full-time employee also means two or more individuals who together share the same job position and together work the normal number of hours a week as required by the business firm for that one position.

Seasonal, temporary, leased or contract labor employees or employees shifted from an existing location in the Commonwealth to a business firm location within an enterprise zone do not qualify as permanent full-time employees.

- employ PFTE at an establishment outside of the zone, this number is “0.”)
2. Divide this number by the number of payroll periods in the base year. The result is the average number of PFTE employed outside the zone during the base year. Enter this number on line 4.A. in Part II.

**PART II, LINE 4.B. BASE YEAR – INSIDE THE ZONE**

1. Count the total number of PFTE the applicant employed at the applicant’s establishment(s) inside the zone, during each payroll period of the base year. (If the applicant did not employ PFTE at its zone establishment(s) during the base year, this number is “0.”)
2. Divide this number by the number of payroll periods in the base year. The result is the average number of PFTE employed at the zone establishment(s) during the base year. Enter this number on line 4.B. in Part II.

**How do I calculate the average number of permanent full time employees?**

According to the Virginia Enterprise Zone Program Regulations, the "average number of permanent full-time employees" means the number of permanent full-time employees during each payroll period of a business firm's taxable year divided by the number of payroll periods:

1. A business firm may count only those permanent full-time employees who worked at least half of their normal work days during the payroll period. Paid leave time may be counted as work time.
2. For a business firm which uses different payroll periods for different classes of employees, the average number of permanent full-time employees of the firm is defined as the sum of the average number of permanent full-time employees for each class of employee.

**PART II, LINE 4.C. QUALIFICATION YEAR – OUTSIDE THE ZONE**

1. Count the total number of PFTE the applicant employed at its Virginia establishment(s) outside the zone, during each payroll period of the qualification year.
2. Divide this number by the number of payroll periods in the qualification year. The result is the average number of PFTE employed outside the zone during the qualification year. Enter this number on line 4.C. in Part II.

**PART II, LINE 4.D. QUALIFICATION YEAR – INSIDE THE ZONE**

1. Count the total number of PFTE the applicant employed at its establishment(s) inside the zone, during each payroll period of the qualification year. (If the applicant did not employ PFTE at its zone establishment(s) during the qualification year, it will not qualify for the general income tax credit.)
2. Divide this number by the number of payroll periods in the qualification year. The result is the average number of PFTE employed inside the zone during the qualification year. Enter this number on line 4.D. in Part II.

**PART II, LINE 4.E. – SHIFTS/TRANSFERS MADE AFTER THE BASE YEAR**

This applies to applicants who shifted or transferred jobs from a Virginia establishment outside the zone to its zone establishment after the base year. For example, a relocating

firm may transfer all its jobs from its former location outside of the zone to its zone establishment. These shifted jobs cannot be counted as part of a firm's required job increase for qualification. The applicant lists these shifted/transferred jobs on line 4.E.

1. Determine the PFTE the applicant shifted/transferred from a Virginia establishment outside the zone to the zone establishment after the base year. Count the total number of these PFTE the applicant employed during each payroll period of the qualification year. (If the applicant did not employ PFTE outside of the zone in the base year, this number will be "0.")
2. Divide this number by the number of payroll periods in the qualification year. The result is the average number of PFTE shifts/transfers. Enter this number on line 4.E. in Part II.

**PART II, LINE 4.F – QUALIFICATION YEAR – INSIDE THE ZONE – NOT SHIFTED/TRANSFERRED**  
Subtract line 4.E from line 4.D. Enter the result on Line 4.F. This is the average number of PFTE that were employed at the zone location during the qualification year and were not shifted/transferred from outside the zone.

**PART II, LINE 4.G – HIRED INSIDE ZONE AFTER BASE YEAR**  
Subtract line 4.B from line 4.F. Enter the result on Line 4.G. This is the average number of new PFTE that were hired at the zone location after the base year.

**PART II, LINE 4.H – PERCENT INCREASE OF PFTE**  
Divide line 4.G by line 4.B and multiply the result by 100. Round to the nearest whole percent. (If line 4.B = 0, divide line 4.G by line 4.A and multiply the result by 100. Round to the nearest whole percent.) Enter the whole percent number on line 4.H. This whole percent number must be "10" or greater for an applicant to qualify for General Income Tax Credits.

**PART II, LINE 4.I – NEW LOW-INCOME EMPLOYEES**  
Low-income status is not determined by the wage paid to the employee once he works for the applicant. Low-income persons are defined by the Virginia Enterprise Zone Program as persons whose family income during the twelve months prior to being hired by the applicant were 80 percent or less of the area median income. Once a person meets the low-income standard as defined by this program, he remains a hired low-income person for as long as the applicant employs him. Area income standards are available on the DHCD web site ([www.dhcd.virginia.gov](http://www.dhcd.virginia.gov)) or from the local enterprise zone administrator (see <https://dmz1.dhcd.virginia.gov/EZApplication/>). Page 30 shows a sample low-income certification form that applicants may use to determine low-income status when hiring employees. This sample form may be downloaded from the DHCD web site ([www.dhcd.virginia.gov](http://www.dhcd.virginia.gov)).

To calculate line 4.I:

1. Determine the PFTE hired by the firm after the base year who qualified as "low-income" before they were hired. (See explanation above.) NOTE: An employee may not be considered low-income and a zone resident. The applicant must select into which category to place any employee who qualifies under both requirements.
2. Count the number of these new "low-income" PFTE for each payroll period of the qualification year.

3. Divide this number by the number of payroll periods in the qualification year. The result is the average number of “low-income” new PFTE. Enter this number on line 4.I. in Part II.

#### **PART II, LINE 4.J – NEW ZONE RESIDENT EMPLOYEES**

A zone resident is a person whose principal place of residency is located within the boundaries of any enterprise zone in Virginia. Zone residency must be verified annually and can be determined by the employee’s address for receipt of W-2 forms or any subsequent address changes made during employment. If an employee’s W-2 address is a post office box, the applicant must determine the employee’s physical address before the employee can be considered a zone resident. The local enterprise zone administrator can assist the applicant in determination of zone residency. (See <https://dmz1.dhcd.virginia.gov/EZApplication/>)

To calculate line 4.J:

1. Determine the PFTE hired by the firm after the base year who qualify as “zone residents.” (See explanation above.) NOTE: An employee may not be considered low-income and a zone resident. The applicant must select into which category to place any employee who qualifies under both requirements.
2. Count the number of these new “zone resident” PFTE for each payroll period of the qualification year.
3. Divide this number by the number of payroll periods in the qualification year. The result is the average number of “zone resident” new PFTE. Enter this number on line 4.J. in Part II.

#### **PART II, LINE 4.K – NEW LOW-INCOME AND ZONE RESIDENT EMPLOYEES**

Add line 4.I to line 4.J. Enter the result on line 4.K.

#### **PART II, LINE 4.L – PERCENT INCREASE OF NEW LOW-INCOME AND ZONE RESIDENT EMPLOYEES**

Divide line 4.K by line 4.G and multiply the result by 100. Round to the nearest whole percent. Enter the whole percent number on line 4.L. This whole percent number must be “25” or greater for an applicant to qualify for General Income Tax Credits.

#### **6. Actual State Tax Liability for Qualification Year**

- List the actual Virginia state tax liability attributable to the conduct of trade or business within the enterprise zone.
- List the tax liability, not taxable income.
- Applicants may need to amend or extend their state tax returns in order to benefit from this tax credit. General Income Tax Credits certificates are issued by DHCD by the July 1<sup>st</sup> that follows the May the application is due. See the explanation for Part II.2. Qualification Year to determine the May the application should be submitted.
- Pursuant to 13 VAC 5-111-80, DHCD will certify an amount of credit based on the tax liability listed on Part II, Line 5. The firm will receive as a maximum amount of tax credit, the amount listed on the DHCD certificate of qualification. However, should the firm show a lower tax liability on their state tax return, then the amount of credit issued will be adjusted accordingly by the Department of Taxation.

- Any applicant that has Virginia taxable income from business activity both inside and outside of the enterprise zone must allocate and apportion its Virginia taxable income attributable to the zone as explained in Appendix B.

#### **7. Negotiated General Tax Credits**

If the business firm was involved in a negotiated general tax credit, enter the total amount negotiated. If no amount has been negotiated, place “N/A” on this line. If you are unsure of the amount negotiated, contact DHCD via e-mail at [EZONE@dhcd.virginia.gov](mailto:EZONE@dhcd.virginia.gov) or via telephone at (804) 371-7030. NOTE: Applicants investing at least \$15 million and creating at least 50 jobs must have negotiated the amount of general income tax credit they may be eligible to receive with DHCD.

### **PART III: DECLARATION**

#### **1. Business Firm Representative**

The application is not complete without the signature, name, and title of an official, authorized representative of the applicant. This signature must be dated.

#### **2. Certified Public Accountant**

An independent certified public accountant (CPA) must sign, date, and complete this section of the application. The CPA must be certified in the Commonwealth of Virginia and must list his Virginia license number, daytime phone number, e-mail address, and mailing address. The CPA cannot be an employee of the applicant requesting qualification for state enterprise zone tax incentives.

See page 13 for a form EZ-6E submittal checklist.

## STEP-BY-STEP INSTRUCTIONS FOR COMPLETING FORM EZ-6N – GENERAL INCOME TAX CREDITS FOR NEW BUSINESSES

Businesses that have already started qualifying for the General Income Tax Credits can finish out their incentive period provided they continue to meet the qualification requirements.

Businesses that have executed signed agreements with the Department of Housing and Community Development (DHCD) by July 1, 2005 for the usage of the General Income Tax Credits or Investment Tax Credits can begin their incentive qualification anytime after they meet the conditions of their agreement with the DHCD and the qualification requirements of the incentives. Such businesses must begin their incentive qualification prior to the expiration of their zone.

Tax credits are only authorized through fiscal year 2019 and will not be available after that time.

Note: Print form EZ-6N on 8½" x 14" paper.

### PART I: BACKGROUND INFORMATION

#### 1. Zone Name

- Indicate the zone's name, number and designation date, as listed at <https://dmz1.dhcd.virginia.gov/EZApplication/>.
- Contact the local zone administrator to verify in which zone the applicant is located. (see <https://dmz1.dhcd.virginia.gov/EZApplication/>)

#### Date Business Began Operation in the Zone

- Indicate the month, day, and year the applicant started operating its business at the zone establishment.

#### 2. Business Firm Legal Name

- Indicate the applicant's legal business firm name.

#### Trading Name

- Indicate the applicant's trading name, if different than its legal name.

#### 3. Federal Employment ID# (FEIN)

- Indicate the applicant's nine digit Federal Employment Identification Number.

#### Activity #

- Indicate the three-digit activity number that applies to the applicant's business type.
- Activity numbers are listed in Appendix A.

#### 4. Principal Mailing Address

- Indicate the applicant's mailing address.
- The tax credit certificate and any related correspondence will be mailed to this address.

## **5. Physical Address of zone establishment**

- If the physical location of the applicant's business operation in the zone is different than the applicant's mailing address, indicate the physical address here.
- Check with the local zone administrator to verify that the physical address of the business is located within the zone. (see <https://dmz1.dhcd.virginia.gov/EZApplication/>)

## **6. Business Firm Contact Person**

- List the name, title, daytime phone number, and e-mail address of the employee who can answer questions about this application. This person cannot be the CPA who is certifying the application.

## **7. Parent Company**

- If the applicant is a subsidiary, list the name and federal identification number (FEIN) of the parent company.

## **8. Check the Type of New Business**

- This describes the applicant at the date the business began operation in the zone. If one of the choices does not apply to the applicant, contact DHCD to discuss this issue immediately via e-mail at [EZONE@dhcd.virginia.gov](mailto:EZONE@dhcd.virginia.gov) or via telephone at (804) 371-7030.
- Check the same type for each year of a business's ten-year qualification period.

## **9. Check the type of Business Organization**

- If "other" is checked, write a description.

## **10. Check the type of state tax that applies to this firm**

- Applicants who are organized as a sole proprietor, partnership, Subchapter S Corporation, or LLC, usually check "individual income tax."

## **PART II: QUALIFICATION INFORMATION**

### **1. Qualification year number**

- Check the appropriate number to indicate what year of the ten-year qualification period this application represents. **Firms other than "large qualified business firms" (as defined on page 31) that have executed signed agreements with DHCD cannot initiate use (start their first qualification year) of this incentive.**

### **2. Qualification taxable year**

- Indicate the applicant's taxable year for which tax credits are being requested.
- List the month, day, and year of the starting date and of the ending date of the taxable year.
- Applications are due to DHCD by May 1<sup>st</sup> of the calendar year following the end date of the qualification year. If the qualification tax year end date falls between January 1 and December 31, the application is due to DHCD by May 1 of the following

calendar year. For example, if the qualification tax year end date is March 30, 2008, the application is due May 1, 2009.

- Exception under §441(f) of the Internal Revenue Code: For applicants with tax years in accordance with §441(f) of the Internal Revenue Code on or before January 7 of the subsequent year, applications requesting a general income tax credit shall be submitted to the department by no later than May 1 of the subsequent calendar year. For example, if an applicant's tax year, in accordance with §441(f) of the Internal Revenue Code, ends by January 7, 2009, this application is due May 1, 2009.

### **3. Step-by-Step Employment Test Calculations**

Note: "PFTE" indicates "permanent full time employee," as defined by the Virginia Enterprise Zone Program Regulations.

#### **What is considered a permanent full time employee (PFTE)?**

According to the Virginia Enterprise Zone Program Regulations, a "permanent full-time employee" means a person employed by a business firm who is normally scheduled to work either:

1. a minimum of thirty-five hours per week for the entire normal year of the business firm's operations, which normal year must consist of at least forty-eight weeks,
2. a minimum of thirty-five hours per week for a portion of the taxable year in which the employee was initially hired for, or transferred to the business firm, or
3. a minimum of 1,680 hours per year if the standard fringe benefits are paid by the business firm for the employee.

Permanent full-time employee also means two or more individuals who together share the same job position and together work the normal number of hours a week as required by the business firm for that one position.

Seasonal, temporary, leased or contract labor employees or employees shifted from an existing location in the Commonwealth to a business firm location within an enterprise zone do not qualify as permanent full-time employees.

#### **PART II, LINE 3.A. PRIOR TO QUALIFICATION YEAR – OUTSIDE THE ZONE**

1. Count the total number of PFTE the applicant employed at its Virginia establishment(s) outside the zone, during each payroll period of the year prior to the qualification year. (If the applicant did not employ PFTE at an establishment outside of the zone, this number is "0.")

2. Divide this number by the number of payroll periods in the year prior to the qualification year. The result is the average number of PFTE employed outside the zone prior to the qualification year. Enter this number on line 3.A. in Part II.

### **How do I calculate the average number of permanent full time employees?**

According to the Virginia Enterprise Zone Program Regulations, the "average number of permanent full-time employees" means the number of permanent full-time employees during each payroll period of a business firm's taxable year divided by the number of payroll periods:

1. A business firm may count only those permanent full-time employees who worked at least half of their normal work days during the payroll period. Paid leave time may be counted as work time.
2. For a business firm which uses different payroll periods for different classes of employees, the average number of permanent full-time employees of the firm is defined as the sum of the average number of permanent full-time employees for each class of employee.

### **PART II, LINE 3.B. QUALIFICATION YEAR – OUTSIDE THE ZONE**

1. Count the total number of PFTE the applicant employed at its Virginia establishment(s) outside the zone, during each payroll period of the qualification year. (If the applicant did not employ PFTE at an establishment outside of the zone, this number is "0.")
2. Divide this number by the number of payroll periods in the qualification year. The result is the average number of PFTE employed outside the zone during the qualification year. Enter this number on line 3.B. in Part II. (To qualify for General Income Tax Credits as a new business, this number must be equal to or greater than the number on line 3.A in Part II.)

### **PART II, LINE 3.C. QUALIFICATION YEAR – INSIDE THE ZONE**

1. Count the total number of PFTE the applicant employed at its establishment(s) inside the zone, during each payroll period of the qualification year. (If the applicant did not employ PFTE at its zone establishment(s) during the qualification year, it will not qualify for the general income tax credit.)
2. Divide this number by the number of payroll periods in the qualification year. The result is the average number of PFTE employed inside the zone during the qualification year. Enter this number on line 3.C. in Part II.

### **PART II, LINE 3.D – NEW LOW-INCOME EMPLOYEES**

Low-income status is not determined by the wage paid to the employee once he works for the applicant. Low-income persons are defined by the Virginia Enterprise Zone Program as persons whose family income during the twelve months prior to being hired by the applicant were 80 percent or less of the area median income. Once a person meets the low-income standard as defined by this program, he remains a hired low-income person for as long as the applicant employs him. Area income standards are available on the DHCD

web site ([www.dhcd.virginia.gov](http://www.dhcd.virginia.gov)) or from the local enterprise zone administrator (see <https://dmz1.dhcd.virginia.gov/EZApplication/>). Page 30 shows a sample income certification form that applicants may use to determine low-income status when hiring employees. This sample form may be downloaded from the DHCD web site ([www.dhcd.virginia.gov](http://www.dhcd.virginia.gov)).

1. Determine the PFTF employed by the firm at the zone establishment(s) during the qualification year who qualified as “low-income” before they were hired. NOTE: An employee may not be considered low-income and a zone resident. The applicant must select into which category to place any employee who qualifies under both requirements.
2. Count the number of these new “low-income” PFTF for each payroll period of the qualification year.
3. Divide this number by the number of payroll periods in the qualification year. The result is the average number of “low-income” new PFTF. Enter this number on line 3.D. in Part II.

#### **PART II, LINE 3.E – NEW ZONE RESIDENT EMPLOYEES**

A zone resident is a person whose principal place of residency is located within the boundaries of any enterprise zone in Virginia. Zone residency must be verified annually and can be determined by the employee’s address for receipt of W-2 forms or any subsequent address changes made during employment. If an employee’s W-2 address is a post office box, the applicant must determine the employee’s physical address before the employee can be considered a zone resident. The local enterprise zone administrator can assist the applicant in determination of zone residency. (See <https://dmz1.dhcd.virginia.gov/EZApplication/>)

1. Determine the PFTF employed by the firm at the zone establishment(s) during the qualification year who qualify as “zone residents.” NOTE: An employee may not be considered low-income and a zone resident. The applicant must select into which category to place any employee who qualifies under both requirements.
2. Count the number of these new “zone resident” PFTF for each payroll period of the qualification year.
3. Divide this number by the number of payroll periods in the qualification year. The result is the average number of “zone resident” new PFTF. Enter this number on line 3.E. in Part II.

#### **PART II, LINE 3.F – NEW LOW-INCOME AND ZONE RESIDENT EMPLOYEES**

Add line 3.D to line 3.E. Enter the result on line 3.F.

#### **PART II, LINE 3.G – PERCENT INCREASE OF NEW LOW-INCOME AND ZONE RESIDENT EMPLOYEES**

Divide line 3.F by line 3.C and multiply the result by 100. Round to the nearest whole percent. Enter the whole percent number on line 3.G. (This whole percent number must be “25” or greater for an applicant to qualify for General Income Tax Credits.)

#### **4. Actual State Tax Liability for Qualification Year**

- List the actual Virginia state tax liability attributable to the conduct of trade or business within the enterprise zone.

- List the tax liability, not taxable income.
- Applicants may need to amend or extend their state tax returns in order to benefit from this tax credit. General Income Tax Credits certificates are issued by DHCD at the end of June that follows the May the application is due. See the explanation for Part II.2. Qualification Year.
- Pursuant to 13 VAC 5-111-80, DHCD will certify an amount of credit based on the tax liability listed on Part II, Line 4. The firm will receive as a maximum amount of tax credit, the amount listed on the DHCD certificate of qualification. However, should the firm show a lower tax liability on their state tax return, then the amount of credit issued will be adjusted accordingly by the Department of Taxation.
- Any applicant that has Virginia taxable income from business activity both inside and outside of the enterprise zone must allocate and apportion its Virginia taxable income attributable to the zone as explained in Appendix B.

**5. Negotiated General Tax Credits**

If the business firm was involved in a negotiated general tax credit, enter the total amount negotiated. If no amount has been negotiated, place “N/A” on this line. If you are unsure of the amount negotiated, contact DHCD via e-mail at [EZONE@dhcd.virginia.gov](mailto:EZONE@dhcd.virginia.gov) or via telephone at (804) 371-7030. NOTE: Applicants investing at least \$15 million and creating at least 50 jobs must have negotiated the amount of general income tax credit they may be eligible to receive with DHCD.

**PART III: DECLARATION**

**1. Business Firm Representative**

The application is not complete without the signature, name, and title of an official, authorized representative of the applicant. This signature must be dated.

**2. Certified Public Accountant**

An independent certified public accountant (CPA) must sign, date, and complete this section of the application. The CPA must be certified in the Commonwealth of Virginia and must list his Virginia license number, daytime phone number, e-mail address, and mailing address. The CPA cannot be an employee of the applicant requesting qualification for state enterprise zone tax incentives.

See page 13 for a form EZ-6N submittal checklist.

## SAMPLE LOW-INCOME CERTIFICATION FORM

To create the Maximum Income Limit Chart used to determine an employee's income status, you can download charts that show 80% of the locality's median income based on household size at <http://www.dhcd.virginia.gov>.

A person's low-income status is determined by the household income in the **year prior to the hire date of the employee**.

Scenario: ACME Products, Inc.

Your employee was hired on January 1, 2007. In the year prior to his/her employment with ACME Products, 2006, he/she was a single person household and his/her total income for 2006 was \$35,000. Below is an example of the format that can be used to certify low-income status and ACME Products, Inc. is used as an example.

EMPLOYEE LOW INCOME STATUS FORM EXAMPLE									
ACME Products, Inc									
Company Name									
I certify that I was hired on (1) <u>January</u> (Month) / <u>1</u> (Day) / <u>2007</u> (Year). My household size during the prior twelve months beginning on (2) <u>January</u> (M) / <u>1</u> (D) / <u>2006</u> (Y) through my hire date was (3) <u>1</u> . My household income for that period was (4) <b>above</b> / below (5) <u>\$27,450</u> .									
MAXIMUM INCOME LIMIT BASED ON PERSONS PER HOUSEHOLD									
PERSONS	1	2	3	4	5	6	7	8	
2006	\$27,450	\$31,350	\$35,300	\$39,200	\$42,350	\$45,450	\$48,600	\$51,750	
2005	\$27,450	\$31,350	\$35,300	\$39,200	\$42,350	\$45,450	\$48,600	\$51,750	
2004	\$25,400	\$29,050	\$32,700	\$36,300	\$39,250	\$42,150	\$45,050	\$47,950	
2003	\$25,400	\$29,050	\$32,700	\$36,300	\$39,250	\$42,150	\$45,050	\$47,950	
2002	\$24,100	\$27,500	\$30,950	\$34,400	\$37,150	\$39,900	\$42,650	\$45,400	
2001	\$22,850	\$26,100	\$29,400	\$32,650	\$35,350	\$37,850	\$40,450	\$43,100	
2000	\$22,300	\$25,450	\$28,650	\$31,850	\$34,400	\$36,950	\$39,500	\$42,050	

**Note:** Your employee listed \$27,450 on line (5) above because he/she used the income standard for the year prior (2006) to the hire date. The employee selected the values under column one because the year prior to the hire date, he/she was a single person household. Since he/she earned \$35,000 in 2006, the employee would circle the word "above" by line (4) on the Employee Low Income Status Form.

## DEFINITIONS FOR GENERAL INCOME TAX CREDITS

For a comprehensive list of definitions, obtain a copy of the Enterprise Zone Emergency Regulations from DHCD via [EZONE@dhcd.virginia.gov](mailto:EZONE@dhcd.virginia.gov) or from the web site [www.dhcd.virginia.gov](http://www.dhcd.virginia.gov).

### **AVERAGE NUMBER OF PERMANENT FULL-TIME EMPLOYEES:**

the number of permanent full-time employees during each payroll period of a business firm's taxable year divided by the number of payroll periods:

1. A business firm may count only those permanent full-time employees who worked at least half of their normal workdays during the payroll period. Paid leave time may be counted as work time.
2. For a business firm that has different payroll periods for different classes of employees, use the sum of the average number of permanent full-time employees for each class of employee as the average number of permanent full-time employees.

### **BASE TAXABLE YEAR:**

either of the two taxable years immediately preceding the first year of qualification, at the choice of the business firm.

### **BUSINESS FIRM:**

any business entity, incorporated or unincorporated, which is authorized to do business in the Commonwealth of Virginia and which is subject to State individual income tax, State corporate income tax, State franchise or license tax on gross receipts, or State bank franchise tax on net taxable capital.

1. The term "business firm" includes partnerships and S Corps and which are not subject to State income tax as partnerships or corporations, but the taxable income of which is passed through to and taxed as income of individual partners and shareholders.
2. The term "business firm" does not include organizations non-profit businesses (i.e., are exempt from State income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, Section 512; nor does it include homeowners associations as defined in the Federal Internal Revenue Code, Section 528.)

### **COMMON CONTROL:**

those firms as defined by Internal Revenue Code § 52(b).

### **DEPARTMENT:**

Virginia Department of Housing and Community Development or DHCD.

### **EMPLOYEE OF A ZONE ESTABLISHMENT:**

a person employed by a business firm who is on the payroll of the firm's zone establishment(s). If an employee is on the payroll of two or more establishments of the firm, both inside and outside the zone, that employee must be assigned to the firm's zone

establishment(s) for at least one-half of his normally scheduled workdays to be considered a zone employee.

**ESTABLISHMENT:**

A single physical location where business is conducted and/or where services or industrial operations are performed.

1. A central administrative office is an establishment primarily engaged in management and general administrative functions performed centrally for other establishments of the same firm.
2. An auxiliary unit is an establishment primarily engaged in performing supporting services to other establishments of the same firm.

**EXISTING BUSINESS FIRM:**

one that was actively engaged in the conduct of trade or business in an area prior to such an area being designated as an enterprise zone or that was engaged in the conduct of trade or business in Virginia and relocates to begin operation of a trade or business within an enterprise zone; one that was not previously conducted in the Commonwealth by such taxpayer who acquires or assumes a Virginia trade or business in the Commonwealth and continues its operations.

**FAMILY:**

(i) one or more persons living in a single residence who are related by blood, marriage or adoption. A stepchild or stepparent is considered to be related by marriage; (ii) one or more persons not living in the same residence but who were claimed as a dependent on another person's Federal Income Tax Return for the previous year is presumed, unless otherwise demonstrated, part of the other person's family; or (iii) an individual 18 or older who receives less than 50 percent of his support from the family, and who is not the principal earner nor the spouse of the principal earner, will not be considered a member of the family. Such an individual is considered a family of one.

**FAMILY INCOME:**

all income actually received by all family members over 16 from the following sources:

1. gross wages and salary (before deductions);
2. net self-employment income (gross receipts minus operating expenses);
3. interest and dividend earnings; and
4. other money income received from net rents, Old Age and Survivors Insurance (OASI), social security benefits, pensions, alimony, child support, and periodic income from insurance policy annuities and other sources.

The following types of income are excluded from family income:

1. non-cash benefits such as food stamps and housing assistance;
2. public assistance payments;
3. disability payments;
4. unemployment and employment training benefits;
5. capital gains and losses; and
6. one-time unearned income.

When computing family income, income of a spouse and/or other family members is counted for the portion of the income determination period that the person was actually a part of the family.

**FAMILY SIZE:**

the largest number of family members during the income determination period.

**INCOME DETERMINATION PERIOD:**

the 12 months immediately preceding the month in which the person was hired.

**INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT:**

a public accountant certified and licensed by the Commonwealth of Virginia who is not an employee of the business firm seeking Enterprise Zone incentives.

**LARGE QUALIFIED BUSINESS FIRM:**

a qualified business firm making qualified zone investments in excess of \$15 million and creating at least 50 permanent full-time positions.

**LARGE QUALIFIED ZONE RESIDENT:**

a qualified zone resident making qualified zone investments in excess of \$100 million when such qualified zone investments result in the creation of 200 permanent full-time positions.

**LOW-INCOME PERSON:**

a person whose family income was less than or equal to 80 percent of area median family income during the income determination period. Persons who meet the definition of both low-income and zone resident may not be counted as both for purposes of meeting employment requirements. Qualifying business firms must claim these persons as either low-income or zone resident.

**MEDIAN FAMILY INCOME:**

the dollar amount, adjusted for family size, as determined annually by the Department for the city or county in which the zone is located.

**NET LOSS (APPLIES TO FIRMS THAT RELOCATE OR EXPAND OPERATIONS):**

(i) after relocating into an enterprise zone, a business firm's gross permanent full-time employment is less than before relocating into the zone; or (ii) after a business firm locates or expands within a zone, its gross permanent full-time employment at its non-zone location(s) is less than before the zone location occurred.

**NEW BUSINESS:**

a business not previously conducted in the Commonwealth by such taxpayer and that begins operation in an enterprise zone after the zone was designated. A new business is also one created by the establishment of a new facility and new permanent full-time employment in an enterprise zone by an existing business firm and does not result in a net loss of permanent full-time employment outside the zone.

**PAYROLL PERIOD:**

the period of time for which a business firm normally pays its employees.

**PERMANENT FULL-TIME EMPLOYEE:**

a person employed by a business firm who is normally scheduled to work either (i) a minimum of thirty-five hours per week for the entire normal year of the business firm's operations, which a normal year must consist of at least forty-eight weeks; (ii) a minimum of thirty-five hours per week for a portion of the taxable year in which the employee was initially hired for, or transferred to the business firm, or (iii) a minimum of 1,680 hours per year and the standard fringe benefits are paid by the business firm for the employee; (iv) two or more individuals who together share the same position and together work the normal number of hours a week as required by the business firm for that one position. (Seasonal, temporary, leased or contract labor positions, or employees shifted from an existing location in the Commonwealth to a business firm located within an enterprise zone may not qualify as permanent full-time employees.)

**PERMANENT FULL-TIME POSITION:**

a job of indefinite duration at a business firm located in an enterprise zone, requiring the employee to report for work within the enterprise zone and requiring either (i) a minimum of thirty-five hours of an employee's time a week for the entire normal year of the business firm's operations, which a normal year must consist of at least forty-eight weeks, or (ii) a minimum of thirty-five hours of an employee's time a week for a portion of the taxable year in which the employee was initially hired for, or transferred to the business firm, or (iii) a minimum of 1,680 hours per year and the standard fringe benefits are paid by the business firm for the employee. Seasonal, temporary, leased or contract labor positions, or a position created when a job function is shifted from an existing location in this Commonwealth to a business firm located within an enterprise zone shall not qualify as permanent full-time positions.

**QUALIFIED BUSINESS FIRM:**

a business firm meeting the business firm requirements of job creation, low-income and zone resident employment specified in the enterprise regulations relating to general tax credit qualification and is designated a qualified business firm by the Department.

**RELATED PARTY:**

those as defined by Internal Revenue Code § 267(b).

**SCORP:**

any small business corporation taxed under Subchapter S of the Federal Internal Revenue Code.

**SEASONAL EMPLOYMENT:**

any employee who normally works on a full-time basis and whose customary annual employment is less than 9 months. For example, individuals hired by a CPA firm during the tax return season in order to process returns and who work full-time over a three-month period are seasonal employees.

**SMALL QUALIFIED BUSINESS FIRM:**

any qualified business firm other than a large qualified business firm, i.e. has less than \$15 million in qualified zone investments and/or creates fewer than 50 permanent full-time positions.

**SMALL QUALIFIED ZONE RESIDENT:**

any qualified zone resident other than a large qualified zone resident.

**TAX DUE:**

the amount of tax liability as determined by the Department of Taxation or the State Corporation Commission.

**TAXABLE YEAR:**

the year in which the tax due on State taxable income, State taxable gross receipts or State taxable net capital is accrued.

**TRANSFERRED EMPLOYEE:**

an employee of a firm in the Commonwealth that is relocated to an enterprise zone facility owned or operated by that firm.

**UNIT OF LOCAL GOVERNMENT:**

any county, city or town. Special-purpose political subdivisions, such as redevelopment and housing authorities and industrial development authorities, are not units of local government.

**ZONE:**

an Enterprise Zone declared by the Governor to be eligible for the benefits of this Program.

**ZONE RESIDENT:**

a person whose principal place of residency is within the boundaries of any enterprise zone. Zone residency must be verified annually. Persons who meet the definition of both low-income and zone resident may not be counted as both. Qualifying business firms must claim these persons as either low-income or zone resident for purposes of meeting employment requirements.

## APPENDIX A – ACTIVITY NUMBERS

<b>Agriculture, Forestry, Fishing and Hunting</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
111	Crop Production
112	Animal Production
113	Forestry and Logging
114	Fishing, Hunting and Trapping
115	Support Activities for Agriculture and Forestry
<b>Mining</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
211	Oil and Gas Extraction
212	Mining (except Oil and Gas)
213	Support Activities for Mining
<b>Utilities</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
221	Utilities
<b>Construction</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
236	Building, Developing, and General Contracting
237	Heavy Construction
238	Special Trade Contractors
<b>Manufacturing</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
311	Food Manufacturing
312	Beverage and Tobacco Product Manufacturing
313	Textile Mills
314	Textile Product Mills
315	Apparel Manufacturing
316	Leather and Allied Product Manufacturing
321	Wood Product Manufacturing
322	Paper Manufacturing
323	Printing and Related Support Activities
324	Petroleum and Coal Products Manufacturing
325	Chemical Manufacturing
326	Plastics and Rubber Products Manufacturing
327	Nonmetallic Mineral Product Manufacturing
331	Primary Metal Manufacturing
332	Fabricated Metal Product Manufacturing
333	Machinery Manufacturing
334	Computer and Electronic Product Manufacturing
335	Electrical Equipment, Appliance, and Component Manufacturing

336	Transportation Equipment Manufacturing
337	Furniture and Related Product Manufacturing
339	Miscellaneous Manufacturing
<b>Wholesale Trade</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
423	Wholesale Trade, Durable Goods
424	Wholesale Trade, Nondurable Goods
425	Wholesale Electronic Markets and Agents and Brokers
<b>Retail Trade</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
441	Motor Vehicle and Parts Dealers
442	Furniture and Home Furnishings Stores
443	Electronics and Appliance Stores
444	Building Material and Garden Equipment and Supplies Dealers
445	Food and Beverage Stores
446	Health and Personal Care Stores
447	Gasoline Stations
448	Clothing and Clothing Accessories Stores
451	Sporting Goods, Hobby, Book, and Music Stores
452	General Merchandise Stores
453	Miscellaneous Store Retailers
454	Nonstore Retailers
<b>Transportation and Warehousing</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
481	Air Transportation
482	Rail Transportation
483	Water Transportation
484	Truck Transportation
485	Transit and Ground Passenger Transportation
486	Pipeline Transportation
487	Scenic and Sightseeing Transportation
488	Support Activities for Transportation
491	Postal Service
492	Couriers and Messengers
493	Warehousing and Storage
<b>Information</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
511	Publishing Industries
512	Motion Picture and Sound Recording Industries
515	Broadcasting and Telecommunications
516	Internet Publishing and Broadcasting
517	Telecommunications
518	Data Processing Services, Internet Service Providers, Web

	Search Portals
519	Other Information Services
<b>Finance and Insurance</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
521	Monetary Authorities - Central Bank
522	Credit Intermediation and Related Activities
523	Securities, Commodity Contracts, and Other Financial Inve
524	Insurance Carriers and Related Activities
525	Funds, Trusts, and Other Financial Vehicles
<b>Real Estate and Rental and Leasing</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
531	Real Estate
532	Rental and Leasing Services
533	Lessors of Nonfinancial Intangible Assets (except Copyright)
<b>Professional, Scientific, and Technical Services</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
541	Professional, Scientific, and Technical Services
<b>Management of Companies and Enterprises</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
551	Management of Companies and Enterprises
<b>Administrative and Support and Waste Management and Remediation Services</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
561	Administrative and Support Services
562	Waste Management and Remediation Services
<b>Educational Services</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
611	Educational Services
<b>Health Care and Social Assistance</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
621	Ambulatory Health Care Services
622	Hospitals
623	Nursing and Residential Care Facilities
624	Social Assistance
<b>Arts, Entertainment, and Recreation</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
711	Performing Arts, Spectator Sports, and Related Industries
712	Museums, Historical Sites, and Similar Institutions
713	Amusement, Gambling, and Recreation Industries
<b>Accommodation and Food Services</b>	
<b>Activity Code</b>	<b>Subsector Description</b>
721	Accommodation
722	Food Services and Drinking Places
<b>Other Services (except Public Administration)</b>	

<b>Activity Code</b>	<b>Subsector Description</b>
<b>811</b>	Repair and Maintenance
<b>812</b>	Personal and Laundry Services
<b>813</b>	Religious, Grantmaking, Civic, Professional, and Similar
<b>814</b>	Private Households

## **APPENDIX B – DETERMINING THE PORTION OF TAXABLE INCOME ATTRIBUTABLE TO CONDUCT OF BUSINESS WITHIN ENTERPRISE ZONE**

General Income Tax credits only apply to taxable income of a qualified business firm attributable to the conduct of business within the enterprise zone. Any qualified business firm having taxable income from business activity both within and without the enterprise zone, must allocate and apportion its Virginia taxable income attributable to the conduct of business as follows:

1. The portion of a qualified business firm's Virginia taxable income allocated and apportioned to business activities within an enterprise zone is determined by multiplying its Virginia taxable income by a fraction, the numerator of which is the sum of the property factor and the payroll factor, and the denominator of which is two.
  - a. The property factor is a fraction. The numerator is the average value of real and tangible personal property of the business firm, which is used in the enterprise zone. The denominator is the average value of real and tangible personal property of the business firm used everywhere in the Commonwealth.
  - b. The payroll factor is a fraction. The numerator is the total amount paid or accrued within the enterprise zone during the taxable period by the business firm for compensation. The denominator is the total compensation paid or accrued everywhere in the Commonwealth during the taxable period by the business firm for compensation.
2. The property factor and the payroll factor shall be determined in accordance with the procedures established in §§ 58.1-409 through 58.1-413 of the Code of Virginia for determining the Virginia taxable income of a corporation having income from business activities which is taxable both within and without the Commonwealth, *mutatis mutandis*.
3. If a qualified business firm believes that this method of allocation and apportionment will underestimate the income attributable to the enterprise zone operation, it should contact the Department of Taxation with its objections and with any alternative method of allocation or apportionment it believes to be more appropriate.

See the Emergency Program Regulations, which are available from the DHCD web site ([www.dhcd.virginia.gov](http://www.dhcd.virginia.gov)), for details about this procedure.

Contact Information:  
Virginia Department of Taxation  
7<sup>th</sup> and Main Streets  
Richmond, VA 23219  
(804) 786-3587  
<http://www.tax.state.va.us>

## APPENDIX C – DEPARTMENT OF TAXATION REQUIREMENTS FOR REPORTING PARTNER AND SHAREHOLDER INFORMATION

The Virginia Department of Taxation requires **Partnership, S-Corp or LLC parent companies report the** credit disbursement information of its partners or shareholders down to the **individual taxpayer level**.

DHCD is responsible for sending the tax credit information for the Original Parent (i.e., the entity that applies for qualification and whose name is on the Certificate of Qualification) to the Department of Taxation. This will be done in July at the same time DHCD notifies the Original Parent of its qualification. The Original Parent is responsible for sending to the Department of Taxation information showing the credit amount for each of its partners or shareholders down to the **individual taxpayer level**. This should be done as soon as possible after the Original Parent receives the Certificate of Qualification with the credit amount from DHCD, but it should be submitted at least thirty days prior to the participants filing their tax returns. The Department of Taxation will not process individual returns that claim a tax credit until the necessary information has been received from the original parent company.

This may be done using the PTE form. The PTE form can be downloaded from the Department of Taxation website at [www.tax.virginia.gov](http://www.tax.virginia.gov) DHCD does not issue a certificate number, so this section should be left blank.

Firms that wish to submit the information electronically should create a “**comma delimited**” file with the following information. “Comma delimited” is a save option under Excel (CSV option) and under Access. The file should be sent to Taxation on a disk or CD to insure security of the information. **Do not** send this data via e-mail.

The Original Parent will send to Taxation a file that contains one record for each partner or shareholder that participates in the Original Parent down through to the **individual taxpayer level**. Each record will include the following information using the format described:

Field ID#	Field Name	Field Size	Character Type	Explanation
1	Credit Type Indicator	2	Alphanumeric	Enter the two letter code to indicate the type of credit: EZ- for GITC for existing business (Form EZ-6E); GITC for new business (Form EZ-6N); and Investment Tax Credit (Form EZ-6I) ER- Real Property Tax Credit (Form EZ-6R)
2	SSN	9	Numeric	Enter the 9 digit SSN of individual taxpayer receiving the credit. Complete this field <b>only</b> if this record is for an <b>individual</b> taxpayer.
3	FEIN		Numeric	Enter 9 digit Federal ID number of the partnership, S-Corp or LLC that received the tax credit. Complete this field <b>only</b> if the record is for a <b>business</b> taxpayer.
4	Granted Credit Amount	12 2	Numeric	Enter the 12 digit dollar amount, with cents for which the taxpayer identified in Field 2 <b>or</b> 3 is qualified.
5	Type of Grantee	1	Alphanumeric	Enter a "P" for pass through credit.
6	Tax Year	4	Numeric	Enter the 4 digit tax year that the credit was earned.
7	Original Parent FEIN	9	Numeric	Enter the 9 digit Federal ID number of the partnership, S-Corp or LLC that qualified for the tax credit (i.e., was issued the Certificate of Qualification form from DHCD).
8	Immediate pass Thru parent FEIN		Numeric	Enter the 9 digit Federal ID number of the pass-through entity to the taxpayer of this record (#2 or #3) is a direct participant. (See note.)
9	Legal Last Name	24	Alphanumeric	Last name of the taxpayer identified by this record.
10	Legal First Name	24	Alphanumeric	First name of the taxpayer identified by this record.
11	Middle Initial	1	Alphanumeric	Middle initial of the taxpayer identified by this record.
12	Certificate Number	8	Alphanumeric	<b>Include this in your file</b> , but leave blank. EZ does not issue certificate numbers.

NOTES:

- Credits will be identified as either EZ, if it is a General Income Tax Credit or Investment Tax Credit and ER if it is the Real Property Improvement Tax Credit.
- Each record must have either the SSN or FEIN field (#2 or #3) completed. This is how the taxpayer will be identified.
- Fields 7 and 8 will contain the same FEIN number for one-tier pass-through breakdowns (i.e., LCC qualifies for credit and passes the credit directly to an individual taxpayer). In the case of multi-tiered breakdowns, these numbers will be different reflecting that the original parent passed through the credit to a partner or shareholder that is a partnership, S-Corp or LLC that in turn passes the credit through to an individual taxpayer.
- DHCD does not issue a certificate number. Field 12 must be included in the file but will be empty.

Contact Cathy Early at (804) 786-2992 or [cearly@tax.state.va.us](mailto:cearly@tax.state.va.us) at the Department of Taxation with any questions about this format, these instructions, or this requirement. Send the disk or CD to Cathy Early, Virginia Department of Taxation, P.O. Box 715, Richmond, VA, 23218-0715.