THE EXPERTS

EXPORT INCENTIVES

Fate of Va. exports rests with General Assembly

In the 2014 Virginia General Assembly session that convened earlier this year, a promising bill is being introduced that, if signed into law, will allow small and mid-sized Virginia businesses to receive full advantage of a vitally important export tax incentive known as a Domestic International Sales Corporation or DISC.

RYAN L. LOSI, CPA

DISCs are U.S. corporations that meet the special criteria of U.S. Internal Revenue Code Sections 991-997, where a U.S. exporter can exclude a portion of its qualifying "export" income from federal taxation. Under the federal DISC rules, exporters pay their affiliated DISCs commissions from export income and deduct those commissions from income. Qualifying commissions are not taxable to a DISC, and are instead taxed when paid to the DISCs' shareholders as a dividend. That dividend is then taxed federally at a maximum rate of 20 percent, resulting in permanent federal tax savings for U.S. exporters and their owners (avoiding the 39.6 percent maximum rate that applies to ordinary income).

This exclusion has created an incentive for small and mid-sized manufacturers and exporters to grow exports. If HB 480 and SB 515 are passed and made law, Virginia taxpayers will be able to take advantage of this vitally important export tax incentive, both with federal and state tax exemptions promising to keep (and increase) jobs and capital investment in the commonwealth.

During the recent five-year "Great Recession," businesses throughout Tidewater benefited from taking their Virginia-made products and services overseas, to foreign countries with better economies, and bringing that money back to help expand their businesses and create new jobs. In 2012, the Tidewater region had exports valued at $6.2 billion, growing by 4.6 percent annually from 2009-2012 and supporting more than 40,000 local jobs in industries including transportation equipment, machinery and tourism.

The DISC regime was first enacted by Congress in the early 1970s as a means to stimulate exports. It has since evolved through the years; today, it is the last remaining export incentive providing permanent tax savings. In 1995, § 58.1-401 of the Code of Virginia was amended to conform to the IRC's other export regime, the Foreign Sales Corporate regime, which was similar to the DISC regime although at the time provided a much larger benefit to large companies, in addition to those small and medium-sized. However, in the early 2000s, Congress repealed the FSC regime, leaving only the DISC regime. Virginia has yet to update its books to reflect this change. Thus, Virginia has not authorized DISCs incorporated in Virginia to take advantage of the favorable tax treatment at the state level. Virginia taxpayers have been denied the DISC incentive originally intended by the General Assembly.

Virginia companies today are at a significant disadvantage for creating qualifying DISCs in Virginia. They instead are turning to competing tax-favorable states, such as Delaware, taking business and investments out of Virginia.

Local legislators, including Del. Ron Villanueva, R-Virginia Beach, and Sen. Frank Wagner, R-Virginia Beach, who are sponsoring HB 480 and SB 514, understand the advantages that this export tax incentive can bring to businesses throughout Tidewater.

Exporters will benefit from a nearly 20 percent reduction in federal taxes, and Virginia will continue receiving the same amount of state income tax.

Additionally, capital that would otherwise flow to accounts in neighboring states and corporate charter and other fees paid to establish and operate DISCs would remain in Virginia's banking system and within the Virginia economy.

By restoring this vitally important export program, the fiscal impacts would be felt both locally, and throughout the commonwealth. The Virginia State Corporation Commission would see an increase in fee revenue from incorporation fees and annual corporate maintenance fees, which are now going to other states that recognize DISCs. Exporters, who have been required to pay fees to out-of-state professionals and support services (registered agents for instance), could now pay Virginia-based professionals for these same services, creating more local jobs.

Passage of this legislation will benefit countless small and mid-sized businesses throughout Tidewater. Eligible industries cover a wide segment of the Virginia economy, including agricultural products (soy, tobacco, timber, etc.), a wide range of manufactured goods, software and other information technology products, biomedical products, minerals and mining products and many sectors of the recycling industry (such as scrap metals, used computers and cellular phones).

For Virginia exporters, the world awaits. DISC is the last remaining export incentive. It's permanent and it's here to stay. I hope that you, as business executives, will see the economic impact this legislation can have on Virginia and support its passage.

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COMMERCIAL REAL ESTATE

Storm water fees to go up when new plan starts

Storm water fees irritate, frustrate and seem to increase each year.

CLAY CULBRETH

Some call them rain taxes. Government folks call them necessary and avoid the word tax.

Localities and environmentalists want them hiked.

Commercial property owners want them to go away.

Residential property owners barely see a blip on their bill, since the fee is buried among other city charges.

The fees are based on one ERU, an acronym for equivalent resident unit.

The acronym is the same for all the cities in the region.

But the fees are different for each city and each may or may not help you reduce them if you do as they say to mitigate your storm water runoff.

The tasks to reduce the bill may include sweeping your parking lot, building a duck pond – commonly known as a retention pond – or erecting a flimsy plastic fence to catch paper cartons, cups and cans.

Hampton's fees are the cheapest.

Virginia Beach, a city of more than 400,000 residents, is the most expensive.

Not far behind is the city of Norfolk, whose population is about half that of Virginia Beach.

Chesapeake, Suffolk and Portsmouth have staked out the middle ground.

But how many of these cities offer a way to reduce those fees?

Not many, if you check their websites.

Hampton and Chesapeake offer a credit, if you do this or that, like sweeping your parking lot or demonstrating your green area to impervious surface – that area that they say will not allow water to filter through.

Did you know grass can be impervious?

Hampton and Chesapeake give you links to the application for a credit.

The best advice is to call the specific department in that particular locale to learn how to have those fees reduced.

So, where do all these fees go?

Are they used exclusively to construct ditches, drainage pipes and install infiltration systems to incarcerate the effluvium from consumption? Who knows?

The problem for most property owners who lease their properties, like real estate taxes, these fees have skyrocketed recently. And not always can those costs be passed directly to the tenant. Thus the property owners' net income is diminished.

To add insult to injury, localities are supposed to implement the Virginia Storm Water Management Plan July 1, so fees will only go higher to fund a new tracking system, to hire expert staff and to hire administrative staff to help the expert staff track polluters.

Get active and ask questions. Help yourself and your clients by seeking ways to reduce those costs.

It takes only a few minutes and is well worth the time.

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