

Rulings of the Tax Commissioner

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IMPORTANT INFORMATION REGARDING THE LAND PRESERVATION INCOME TAX CREDIT

New Cap Amount

House Bill 5019 (Chapter 4, Special Session I of 2006) made several changes to the Land Preservation Tax Credit. One of these changes established a \$100 million cap on the amount of total credits that may be issued by the Department of Taxation ("TAX") during a calendar year.

In addition, the legislation provided a mechanism by which this cap may be increased because of inflation. Under *Va. Code* § 58.1-512 D 4b, beginning with calendar year 2008, the \$100 million cap must be increased by an amount equal to \$100 million multiplied by the percentage by which the consumer price index for all-urban consumers published by the United States Department of Labor (CPI-U) for the 12-month period ending August 31 of the preceding year exceeds the CPI-U for the 12-month period ending August 31, 2006. For calendar year 2008, the cap was \$102,287,000.

Using information obtained from United States Bureau of Labor Statistics, TAX compared the CPI-U for the 12-month period ending August 31, 2008 ("second 12-month period") with the CPI-U for the 12-month period ending August 31, 2006 ("first 12-month period"). Based on these statistics, the average CPI-U for the second 12-month period increased by approximately 6.6% over the average for the first 12-month period. As a result, the cap for the Land Preservation Income Tax Credit will be increased to \$106,647,000 for calendar year 2009.

2009 Legislation

Legislation enacted by the 2009 Session of the General Assembly, House Bill 1891 and Senate Bill 986 (2009 *Acts of Assembly*, Chapters 12 and 510) reduces the amount of Land Preservation Income Tax Credits that may be claimed on income tax returns from \$100,000 per taxpayer per year to \$50,000 per taxpayer per year, effective for credits claimed for Taxable Years 2009 and 2010. Therefore, for Taxable Years 2009 and 2010, joint filers' maximum credit will be reduced from \$200,000 to \$100,000 and single filers' maximum credit will be reduced from \$100,000 to \$50,000. The bills also extend the carryover period by two years for those taxpayers who are affected by this limitation. These bills reduce the amount of credit that can be claimed on the return, not the total amount of credits that may be earned or the amount of credit that may be held by the taxpayer.

The extended carryover period is applicable only for the actual amount of credit affected by the limitation; it is not applicable to Land Preservation Income Tax Credits in general. In addition, the extended carryover period applies only to the taxpayer affected by the limitation; it does not attach to the credit if the credit is sold or otherwise transferred.

If you have additional questions, please visit our website at www.tax.virginia.gov, or contact the Tax Credit Unit at (804) 786-2992.
