

Policy and Procedure 7-8 Tax Credit Programs

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Codes/Mandates: [§58.1-339.10](#) : [§58.1-439.12](#) Riparian Forest buffer protection for waterways tax credit
[§58.1-339.13](#) Reforestation and afforestation tax credit

References: [Policy and Procedure 07-001- Forest Management Planning](#)

Forms: [Form 3.9 Forestry Cost-Share or Grant Program Certification of Work Completed](#)
[Form 7.29 Hardwood Initiative Tax Credit Application](#)
[Form 18.8 Riparian Buffer Tax Credit Application](#)
[Form 18.9 Riparian Buffer Tax Credit S-Corporation/Partnership Landowner Information](#)
[Form 18.10 Riparian Buffer Tax Credit Application Verification](#)
[Virginia Form PTE Virginia Pass-Through Credit Allocation \(VATAX form\)](#)

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PURPOSE

To summarize the required qualifications and application procedure which landowners/taxpayers must follow to receive tax credit for the specific tax credit program.

POLICY

It shall be the policy of the Virginia Department of Forestry to ensure compliance with Virginia Department of Taxation regulations governing the approved programs which provide credit to taxpayers for carrying out best management practices for hardwood afforestation and leaving riparian buffers along waterways in Virginia when harvesting timber.

DEFINITIONS

“Agency” and “DOF” means the Virginia Department of Forestry.

“Commonwealth” means the Commonwealth of Virginia.

“Best Practice(s)” means hardwood management activities identified by DOF as being beneficial for hardwood forests at various stages of development.

“Disregarded Entity” means a business entity that is not considered to be separate from its owner for Federal income tax purposes. This is normally a company with a single owner.

“Eligible Expenditures” means direct expenses incurred by an applicant related to implementing beneficial hardwood management practices pursuant to DOF best practices.

“Forest Management Plan” means a written plan prepared by a forestry professional containing at least; 1. Landowner’s management goals and objectives; 2. Specific Stand Description; 3. Management Recommendations; 4. Map of area covered by plan. (See Policy and Procedure 7-001)

“Hardwood Afforestation” means planting of non-forest land with trees. At least 50% of the planted seedlings must be hardwood trees.

“Hardwood Forestland” means forest that is comprised of at least 75% hardwood trees by basal area.

“Operator” means any person that operates or has operated or exercises or has exercised control over any silvicultural activity.

“Owner” means any person that (i) owns or leases land on which silvicultural activity occurs or has occurred or (ii) owns timber on land on which silvicultural activity occurs or has occurred.

“Pass-Through Entity” (PTE) means any business that is recognized as a separate entity for federal income tax purposes and who’s owners report the business income on their own individual tax returns. This includes S Corporations, LLPs and LLCs, among others.

PROCEDURES

Hardwood Initiative Tax Credit Program

Qualification

- ◆ Qualified applicants may receive an income tax credit of up to \$1000 for unreimbursed expenditures in a single year (January 1 through December 31) for completing one or more hardwood Best Practices.
- ◆ There may be one application per tract per year. Practices occurring on multiple stands may be included on the same application.
- ◆ The applicant must be subject to Virginia income tax. Individuals should contact a tax advisor if they are unsure of their situation. Eligible applicants include:
 - Individuals subject to Virginia individual income tax:
 - Qualify as a taxpayer under [§ 58.1-1](#) of the Code of Virginia and
 - Subject to individual income tax under [§ 58.1-320](#) of the Code of Virginia.
 - Owners of disregarded entities for federal income tax purposes (such as certain sole proprietorships and single member limited liability companies, among others) who are individuals subject to Virginia income tax.
 - Owners of pass-through entities as defined in [§ 58.1-390.1](#) of the Code of Virginia (such as certain partnerships, S corporations, and multi-member limited liability companies, among others) who are individuals subject to Virginia income tax.
- ◆ Pass-Through Entities (PTE) may apply following the same rules as individuals.
 - PTEs must pass the credits through to owners of the PTE using Virginia Form PTE. Any questions should be directed to Virginia Department of Taxation or a tax advisor.
- ◆ In most cases the applicant will have an ownership interest in the property where the forest management practice is taking place and the applicant, landowner, and taxpayer will be the same person.
 - An applicant that does not have an ownership interest but has been designated by the landowner as having authority for forest management decisions, such as a family member or lessee, may be eligible. In these cases, the applicant must be the taxpayer that incurred an eligible expense.

- ◆ The applicant must present a Forest Management Plan to the DOF Area Forester that recommends one or more hardwood Best Practice(s) for the property. The plan must be approved by DOF.
- ◆ The applicant must accomplish the hardwood Best Practice(s) as indicated on the application and described in the approved Forest Management Plan.
- ◆ The hardwood Best Practices must occur on at least 5 acres of Hardwood Forestland, except for Hardwood Afforestation which must be at least 1 contiguous acre.
- ◆ Hardwood Best Practices include:
 - Competing Vegetation Control (including invasive species)
 - Crop Tree Release
 - Prescribed Burning and Firebreaks
 - Mid-story Removal
 - Timber Stand Improvement, such as:
 - Liberation
 - Pre-commercial Thinning
 - Deadening Cull Trees
 - Native vine control
 - Hardwood Afforestation planting following Virginia Hardwood Planting Guidelines
- ◆ Personal time the applicant spent working on the hardwood Best Practice(s) themselves cannot be valued for the tax credit. The tax credit is only for eligible expenditures (money paid by the applicant).
- ◆ Eligible expenditures may include:
 - Payment to a contractor or other individual to perform work. Payments to forestry professionals for marking or identifying trees as necessary for completion of hardwood Best Practice(s) may be included as eligible expenditures.
 - Materials necessary for the applicant to complete the work themselves (consumable items such as herbicide, fuel, paint, chains, sawblades, flagging, seedling protection, etc...). There is no limit on the cost per item of materials.
 - Equipment purchases necessary for the applicant to complete the work themselves (pruners, saws, herbicide applicators, power tools). Tax credit for equipment purchases is limited to \$100 per item purchased.
 - [Form 3.09 Forestry Cost-Share or Grant Program Certification of Work Completed](#) may be used to summarize Materials and Equipment purchases.
- ◆ The applicant must provide receipts or invoices as proof of value of expenditures.
- ◆ If the applicant participates in an incentive program or cost-share, the applicant may claim the credit for any remaining unreimbursed expense in excess of the incentive or cost-share payments. Applicants must provide proof of cost-share or incentive payments received.
- ◆ The tax credit must be claimed for the same calendar year in which the Forest Management Plan was approved and hardwood Best Practice(s) completed. Excess credit may be carried over for up to five years.
- ◆ Practice(s) will be considered complete when all necessary work is done or when payment is made, whichever is later.
- ◆ The tax credit is not transferrable.
- ◆ The tax credit is not refundable.
- ◆ Applicants may only receive tax credit for work done on land located within Virginia.
- ◆ The forest that benefitted from the practice may not be converted to non-forest use for 10 years.

Application and Certification Process

- ◆ The applicant shall present a Forest Management Plan to a DOF Area Forester. The plan must recommend one or more hardwood Best Practice(s) and include a map indicating the project area. The plan must have been prepared by DOF or another forestry professional.
- ◆ The Area Forester will review the Forest Management Plan, verify it recommends a hardwood Best Practice(s), and approve the hardwood Best Practice(s) in the Forest Management Plan. Any questions should be discussed with the Hardwood Initiative Coordinator.
- ◆ The Area Forester will indicate approval of the plan in Section 2 of the [Form 7.29 Hardwood Initiative Tax Credit Application](#) and provide a copy of the Form 7.29 to the applicant.
- ◆ The Area Forester will record a planned accomplishment for the Hardwood Initiative Tax Credit in IFRIS for each stand that will have a hardwood Best Practice(s) completed in it.
 - The Hardwood Initiative Coordinator will monitor the planned accomplishments regularly.
 - If the number of tracts with planned accomplishments approaches the maximum that can be certified under available funds, the Hardwood Initiative Coordinator will notify staff who will then confirm available credit with the Hardwood Initiative Coordinator before accepting additional applications.
 - If the cap has been reached, the Hardwood Initiative Coordinator will contact agency staff to notify them that any additional applications will be put on a waitlist and have credits issued only if they become available.
- ◆ The applicant will complete the hardwood Best Practice(s) and notify the Area Forester of completion.
- ◆ The Area Forester will perform a site inspection to verify practice completion as described in the Forest Management Plan.
- ◆ The Area Forester will convert the Planned Accomplishment into an Accomplishment in IFRIS, indicate practice completion in Section 3 of the [Form 7.29 Hardwood Initiative Tax Credit Application](#) and return it to the applicant with a map of the project area and an envelope addressed to the Hardwood Initiative Coordinator.
 - If the applicant had more than one expenditure, [Form 3.09 Forestry Cost-Share or Grant Program Certification of Work Completed](#) should be provided to the applicant to summarize expenses (likely needed if the applicant performed work themselves and made Materials and Equipment purchases).
- ◆ The applicant will complete Section 4 and submit the following to the Hardwood Initiative Coordinator in the provided envelope:
 - [Form 7.29 Hardwood Initiative Tax Credit Application](#) with Sections 1, 2, 3, and 4, completed;
 - [Form 3.09 Forestry Cost-Share or Grant Program Certification of Work Completed](#), if necessary;
 - A map from the Area Forester;
 - Paid invoice or receipts indicating expenses;
 - Proof of Cost Share or incentive payments received.
- ◆ The Hardwood Initiative Coordinator will validate the application and supporting documents and then agency staff will produce and distribute the Hardwood Initiative Tax Credit Certificate:
 - One copy of the applicant's certificate will be mailed to the applicant. If the applicant is a PTE, a Virginia Form PTE may be included in the mailing.
 - One copy of the applicant's certificate will be retained on file with the Hardwood Initiative Coordinator.
 - A .pdf version of the certificate with the Social Security number removed will be emailed to the area forester.
- ◆ Agency staff will enter the information into a tax credit spreadsheet that is protected and transmitted to the Virginia Department of Taxation regularly.
- ◆ The Hardwood Initiative Coordinator retains the application package on file.

Riparian Buffer Tax Credit Program

Qualification

- ◆ The harvested area must have more than 50 percent of the basal area harvested adjacent to the riparian buffer. If more than 50 percent of the basal area was retained in the harvested area, the landowner has not forgone income by leaving the buffer.
- ◆ No water quality law violation can exist on the harvest area. If there is a water quality law violation, it must be resolved before the landowner is eligible for the tax credit.
- ◆ Timber harvest has been completed adjacent to the buffer and on the same tract.
- ◆ Buffer must be at least 35 feet wide from the bank to the outer drip line and no more than 300 feet wide. The buffer can be on one side of the stream.
- ◆ Buffer must remain intact for 15 years.
- ◆ Buffer must be on "any perennial or intermittent stream found on the US Geologic Survey 1:24,000 topographic maps" or meet the definition of a stream according to the US Geologic Survey.
- ◆ Landowners can be individuals, S-Corporations or Partnerships (S-Corporations and Partnerships MUST pass Tax Credit to shareholders/partners). Estates are not eligible for this tax credit, but Family Partnerships and Limited Liability Corporations are eligible. A Grantor's Trust is eligible for this tax credit.
- ◆ Lands located outside the state boundary are not eligible.
- ◆ Any land disturbance that reduces the effectiveness of the buffer, including allowing livestock access, will disqualify the area.
- ◆ Maintained corridors (such as rights-of-way or roads), areas around maintained structures, or openings in crown cover greater than 60 feet do not qualify as buffer areas.
- ◆ Harvest completion was after January 1, 2000.
- ◆ Tax credit must be claimed for the same year in which the harvest was completed.
- ◆ Riparian Buffers Tax Credit and Easement Properties
 - DOF will allow the normal claiming of RBTCs on easement properties, regardless of buffer harvesting restrictions required by the terms of the easement. This is applicable regardless of the easement holder and must follow the normal rules regarding the requirements under the RBTC Program. The only exception is in cases where DOF has knowledge that the timber in the SMZ was separately valued/appraised for the purpose of determining the value of the conservation easement, in which case, the property is not eligible for the tax credit.

Application

Individuals, S-Corporations, Partnerships and Grantor's Trusts who want to apply for this tax credit must provide the following items to their local Department of Forestry office:

- ◆ [Form 18.08 Riparian Buffer Tax Credit Application](#) – the landowner or his/her representative submits the application by hardcopy
- ◆ [Form 18.09 Riparian Buffer Tax Credit S-Corporation/Partnership Landowner Information](#) – to be submitted if there are more than five individual landowners or if landowners are S-Corporations or Partnerships
- ◆ Copy of a DOF approved Forest Stewardship Management Plan. The criteria for a Stewardship Plan (meeting National Standards) are available from the Virginia Department of Forestry. The tract must be at least 10 acres in size (including the contained buffers).
- ◆ Proof of land ownership (copy of title or deed, copy of last year's tax bill, etc.)

- ◆ Proof of value of timber remaining in the buffer from specific professional riparian buffer cruise, or prorated value from overall harvesting operation based on acreage (documents from sale of timber).
- ◆ Map of Riparian Buffers
 - Buffers must be drawn on a USGS 7.5" Topographic Quadrangle (Topo Quad).
 - The Topo Quad base map cannot be reduced from its original scale (of 1" = 2000'). It may, however, be enlarged.
 - The Topo Quad Name(s) used must be indicated on the map.
 - The perimeter of each buffer must be clearly visible on the map and labeled with consecutive numbers (i.e. 1, 2, 3.)
 - The drawn buffers must accurately reflect the buffer boundary locations on the ground.
 - If the Topo Quad is black-and-white (from photocopy), buffers must be drawn in a color other than black.
 - Map must be submitted with and at the same time as the other supporting documents for the application (i.e. Stewardship Plan, Proof of Property Ownership, Harvest Value info, etc.)
 - Map can also be submitted as an ESRI Shape file for transfer to IFRIS mapper.
 - Buffer acres must be indicated on the map.
 - Map digitized in IFRIS and printed.
- ◆ Riparian Buffer Tax Credit Application Fee of \$150 must be submitted with the application (check or money order).

The following item will be obtained from the local Department of Forestry Area Office.

- ◆ A copy of the Harvest Inspection Report will be attached to the application package.

Buffer Value

Timber value within the buffer can be estimated either by using the average value of the harvest sale for that tract OR from a professional timber cruise of the timber in the buffer area. If the landowner performs a partial harvest within the buffer, then the buffer timber value is decreased by half. The area forester will review the statement of value of the timber remaining in the buffer and determine if it appears reasonable.

The amount of the credit is 25 percent of the value of the timber in the buffer, up to \$17,500.

Area foresters are responsible for making these calculations by hand. Here is a simple example of the calculations being performed:

- ◆ 50 acres harvested
- ◆ \$50,000 paid for the timber on the 50 acres
- ◆ \$1,000 average price per acre
- ◆ 5 acres riparian buffer retained
- ◆ \$5,000 total value of timber retained in buffer if no cutting takes place in buffer
- ◆ If no cutting takes place in the buffer, the landowner can claim 25 percent of the buffer value retained. The landowner can claim a \$1250 tax credit (\$5,000 buffer value x 0.25).
- ◆ If the buffer was partially harvested, the total value of the timber in the buffer is half of the buffer value. The landowner can claim 25 percent of half of the buffer value, or \$625 tax credit (\$2,500 buffer value x 0.25).

Certification Process and Procedure

An application fee will be required with submission.

1. The landowner (or his/her representative) will deliver all application documents (including a hardcopy map according to above specifications) to a local DOF Area Office.
2. Area forester collects supporting documents and completes the following:

- Logs into IFRIS mapper and maps the riparian buffer area, listing the riparian forest buffer acres in the comment field on the map and prints the map.
 - Completes a [Form 18.10 Riparian Buffer Tax Credit Application Verification](#).
3. Area forester submits the Form [18.08 Riparian Buffer Tax Credit Application](#), [Form 18.09 Riparian Buffer Tax Credit C-Corporation/Partnership Landowner Information](#) (if applicable), IFRIS map (with buffer acres listed in the comment field), application fee payment and [Form 18.10 Riparian Buffer Tax Credit Application Verification](#) to the water quality program coordinator at the Headquarters Office.
 4. Headquarters receives the application package and payment:
 - A copy of the check or money order will be made and retained with the application package to go to the water quality program coordinator.
 - A copy of the Form 18.08 will be made and sent to Finance with the application fee check.
 5. The water quality program coordinator will validate, produce, print and mail the Riparian Forest Buffer Tax Credit Certificate(s) to landowner(s):
 - One copy of each landowner's certificate is mailed to the primary contact listed on the Form 18.08.
 - One copy of each landowner's certificate is retained on file with the water quality program manager.
 - A pdf version of the certificate(s) with the Social Security number removed is emailed to the area forester for their files.
 6. The water quality program coordinator enters the information into a tax credit spreadsheet that is protected and emailed to the Virginia Department of Taxation monthly.
 7. The water quality program coordinator retains the application package on file.

AUTHORITY

This policy and procedure is issued by the Virginia state forester.

INTERPRETATION

The hardwood initiative coordinator, water quality engineer and deputy state forester are responsible for the interpretation of this policy and procedure.

APPROVAL

I certify that this policy and procedure is approved and ready for publication.

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| <p>Joseph Rossetti</p> <hr/> <p>Hardwood Initiative Coordinator Name (Print)</p> | <p>DocuSigned by: <i>Joseph D Rossetti</i> 10/18/2023</p> <hr/> <p>70E00AB101A744B... Hardwood Initiative Coordinator Signature</p> |
| <p>Rodney Newlin</p> <hr/> <p>Water Quality Engineer Name (Print)</p> | <p>DocuSigned by: <i>Rodney Newlin</i> 10/19/2023</p> <hr/> <p>DB200A8919AF4CB... Water Quality Engineer Signature</p> |
| <p>Ed Zimmer</p> <hr/> <p>Deputy State Forester Name (Print)</p> | <p>DocuSigned by: <i>Ed Zimmer</i> 10/24/2023</p> <hr/> <p>419917A3648044C... Deputy State Forester Signature</p> |