

12C-1.01915 Credit for Qualified Railroad Reconstruction or Replacement Expenditures.

(1) Definitions. For purposes of this rule, the following terms mean:

(a) “Credit” means the credit for qualified railroad reconstruction or replacement expenditures authorized under Section 220.1915, F.S.

(b) “Qualified expenditures” means gross expenditures made in Florida by a qualifying railroad during the taxable year in which the credit is claimed, provided such expenditures were made for track that was owned or leased by a qualifying railroad, and were:

1. For the maintenance, reconstruction, or replacement of railroad infrastructure, including track, roadbed, bridges, industrial leads and sidings, or track-related structures which were owned or leased by the qualifying railroad; or
2. For new construction by the qualifying railroad of industrial leads, switches, spurs and sidings, and extensions of existing sidings located in Florida.

(c) “Qualifying railroad” means any Class II or Class III railroad operating in Florida on the last day of the taxable year for which the credit is claimed, pursuant to the classifications in effect for that year as set by the United States Surface Transportation Board or its successor.

(2) Available Credits for Qualifying Railroads. For taxable years beginning on or after January 1, 2023, a credit equal to 50 percent of a qualifying railroad’s qualified expenditures incurred in Florida during a taxable year is available against the Florida corporate income tax imposed by Chapter 220, F.S. However, the amount of the credit may not exceed \$3,500 multiplied by the number of miles of railroad track owned or leased in Florida by the qualifying railroad as of the end of the taxable year in which the qualified expenditures were incurred.

(a) The amount taken as a credit must be added to taxable income prior to computing the tax imposed by Ch. 220, F.S.

(b) For purposes of computing the credit limitation, double track is treated as multiple lines of railroad track. One mile of single track is equal to one mile, but one mile of double track is equal to two miles.

(c) The credit is allowed only once for each mile of railroad track in Florida in each taxable year. No two qualifying railroads may claim the same mile of railroad track in a taxable year.

(3) Application Process. To apply for available program credits, a qualifying railroad must submit a Florida Credit for Qualified Railroad Reconstruction or Replacement Expenditures Application for Credit (Form F-11915, incorporated by reference in Rule 12C-1.051, F.A.C.) to the Department each taxable year, along with documentation demonstrating that the qualifying railroad’s qualified expenditures meet the criteria to receive credits.

(a) If the qualifying railroad earned a federal credit under 26 U.S.C. 45G during the taxable year, the supporting documentation must include federal Form 8900 (Qualified Railroad Track Maintenance Credit) or its equivalent.

(b) If the qualifying railroad is a taxpayer under Chapter 220, F.S., it must submit Form F-11915 when it files its Florida Corporate Income/Franchise Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.).

(c) If the qualifying railroad is not a taxpayer under Chapter 220, F.S., it must submit Form F-11915 to the Department no later than May 1 of the calendar year following the year in which the qualified expenditures were made. If the May 1 due date falls on a Saturday, Sunday, or legal holiday, Form F-11915 will be considered timely if the form is postmarked or electronically submitted on the next succeeding day that is not a Saturday, Sunday, or legal holiday. The May 1 due date may not otherwise be extended.

1. Example: Qualifying railroad X is not a taxpayer under Chapter 220, F.S. Qualifying railroad X operates on a calendar year basis. X has qualified expenditures during calendar year 2023. X must apply for a credit by submitting Form F-11915 with the Department no later than May 1, 2024.

2. Example: Qualifying railroad Y is not a taxpayer under Chapter 220, F.S. Qualifying railroad Y operates on a fiscal year basis, with a January 31 year end. Y has qualified expenditures during the fiscal year beginning February 1, 2023, and ending January 31, 2024. Y must apply for a credit by submitting Form F-11915 with the Department no later than May 1, 2025.

(d) If the qualifying railroad is a disregarded entity for federal tax purposes, Form F-11915 must be submitted in the name of the owner of the disregarded entity.

(4) Determination of Carryforward or Transfer of Unused Credits. When a credit is not fully used during a taxable year, either because the qualifying railroad that earned the credit has insufficient tax liability or because the qualifying railroad is not a taxpayer under Chapter 220, F.S., the credit may be carried forward or may be transferred in accordance with subsection (5). The carryforward or transferred credit may be used in any of the 5 subsequent taxable years in which the credit was earned, when the tax imposed by Chapter 220, F.S., for that taxable year exceeds the credit for which the qualifying railroad or transferee is eligible in that taxable year, after applying the other credits and unused carryovers in the order provided by Section 220.02(8), F.S.

(a) If the qualifying railroad is a taxpayer under Chapter 220, F.S., the Department will notify the qualifying railroad by letter within 30 days after the receipt of a completed Florida Credit for Qualified Railroad Reconstruction or Replacement Expenditures Application for Credit (Form F-11915), indicating the amount of credit that may be carried forward or transferred.

(b) If the qualifying railroad is not a taxpayer under Chapter 220, F.S., the Department will notify the qualifying railroad by letter within 30 days after the receipt of completed Form F-11915, indicating the amount of credit that may be transferred.

(c)1. Amounts that exceed the limitation of \$3,500 multiplied by the number of miles of railroad track owned or leased in Florida by the qualifying railroad as of the end of the taxable year in which the qualified expenditures were incurred, as provided in subsection (2), may not be carried forward to a subsequent taxable year or transferred.

2. Example: Qualifying railroad Corporation A is a taxpayer under Chapter 220, F.S., that incurs \$20,000 of qualified expenditures during its taxable year. Corporation A owns 2 miles of railroad track within Florida as of the end of its taxable year. Corporation A's credit is equal to 50 percent of the \$20,000 qualified expenditures incurred in the taxable year but may not exceed \$3,500 multiplied by the number of miles owned or leased in Florida at the end of its taxable year.

Credit computation: $50\% \times \$20,000 = \$10,000$ but may not exceed \$7,000 ($\$3,500 \times 2$ miles of railroad track). Therefore, Corporation A receives a \$7,000 credit for qualified railroad reconstruction or replacement expenditures.

The amount of computed credit exceeding the limitation amount ($\$3,000 = \$10,000 - \$7,000$) cannot be used, carried forward, or transferred.

When it files its Florida Corporate Income/Franchise Tax Return (Form F-1120), Corporation A has \$5,000 tax due after application of all credits required to be claimed prior to application of the credit for qualified railroad reconstruction or replacement expenditures. Assuming the Department does not have to make any adjustments to Corporation A's Form F-1120, the Department will issue a letter to Corporation A indicating that the amount of credit available to carry forward or transfer is \$2,000 ($\$7,000 - \$5,000$).

(5) Transfer of credit. For taxable years beginning on or after January 1, 2023, an unused credit may be transferred. The transfer of a credit does not affect the time limit for taking the credit, and the credit is subject to the same limitations imposed on the transferor in accordance with subsection (4).

(a) Credits may be transferred to a taxpayer subject to the tax under Chapter 220, F.S., and that either transports property using the rail facilities of the qualifying railroad, or furnishes railroad-related property or services to any railroad operating in Florida, or is a railroad, as those terms are defined in 26 C.F.R. s. 1.45G-1(b) (March 18, 2018), and herein incorporated by reference (<http://www.flrules.org/Gateway/reference.asp?No=Ref-16071>). A copy of this regulation is available from the Department at https://floridarevenue.com/taxes/taxesfees/Pages/corp_tax_incent.aspx.

(b) The transferor is required to notify the Department of a credit transfer by submitting a Florida Credit for Qualified Railroad Reconstruction or Replacement Expenditures Notice of Intent to Transfer a Credit (Form F-11915T, incorporated by reference in Rule 12C-1.051, F.A.C.) to the Department within 30 days after the transfer. A separate notice must be submitted for each taxpayer receiving a transfer of credit.

(c) The Department will provide a letter to the transferor and transferee acknowledging the transfer of credit. The transferee must attach the letter to its Florida Corporate Income/Franchise Tax Return (Form F-1120) on which the credit is taken.

(6) Every taxpayer claiming a credit must retain documentation that substantiates and supports the credit until tax imposed by Chapter 220, F.S., may no longer be determined and assessed under Section 95.091(3) or Section 220.23, F.S. Documentation to substantiate and support the credit includes copies of: the completed credit application submitted to the Department; documentation related to any federal credit earned under 26 U.S.C. 45G; documentation related to any qualified expenditures incurred by the qualifying railroad, and the transfer letter issued by the Department reflecting the credit amount transferred.

Rulemaking Authority 213.06(1), 220.1915(7) FS. Law Implemented 220.02(8), 220.1915 FS. History—New 12-3-23.