

Credits/Incentives:

South Carolina Appellate Court Says \$5 Million Credit Cap Applies Annually and is Not a Lifetime Limit

Case No. 2020-001542, S.C. Ct. App. (3/26/25). Reversing a South Carolina Administrative Law Court (ALC) ruling which held that South Carolina's investment tax credit under the 2014 version of S.C. Code section 12-14-60(G) is limited to a \$5 million total for *all tax years*, the South Carolina Court of Appeals (Court) held that while it is "deferential to an agency's interpretation of its law and policies, the interpretation of the five-million-dollar statutory cap as a lifetime limit contradicts our reading of the statute's plain language." In doing so, the Court explained that the ALC erred in finding that the statute at issue was ambiguous and instead concluded that the statute clearly provides for a \$5 million *annual* limitation. Accordingly, the utility company in the case was deemed entitled to nearly \$20 million of the state investment tax credits it earned for tax years 2011 through 2014, as it did not exceed the annual five-million-dollar limit for any of the relevant years. Please contact us with any questions.

URL: <https://www.sccourts.org/media/opinions/HTMLFiles/COA/6107.pdf>

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