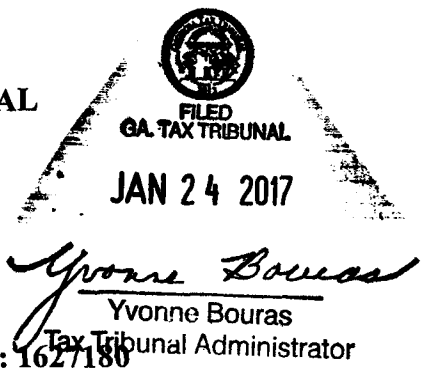
BEFORE THE GEORGIA TAX TRIBUNAL
STATE OF GEORGIA



SEWON AMERICA, INC.,	*	
	*	
Petitioner,	*	
	*	**DOCKET NO.: 1627180**
v.	*	
	*	
LYNNETTE T. RILEY, COMMISSIONER OF THE GEORGIA DEPARTMENT OF REVENUE,	*	
	*	
Respondent.	*	
	*	

DECISION

2017 – 1 Ga. Tax Tribunal, January 24, 2017

I. INTRODUCTION

Sewon America, Inc. ("Petitioner") challenges Lynnette T. Riley, Commissioner of the Georgia Department of Revenue's ("Respondent") denial of Petitioner's claim for Quality Jobs Tax Credits for tax years ending on June 30, 2013 and June 30, 2014. On September 23, 2016, Petitioner and Respondent moved for summary judgment. Respondent filed a Brief in Opposition to Petitioner's Motion for Summary Judgment on October 18, 2016. An oral argument was held on November 29, 2016. Petitioner filed a supplemental brief in support of its Motion on December 9, 2016. Respondent filed a supplemental brief in support of its Motion on December 13, 2016, and a response to Petitioner's Supplemental Brief on December 16, 2016. Petitioner replied to Respondent's Supplemental Brief on December 19, 2016. After careful consideration of the parties' Motions and arguments and for the reasons set forth below, Respondent's Motion for Summary Judgment is **GRANTED** and Petitioner's Motion for Summary Judgment is **DENIED**.

II. STATUTORY AND REGULATORY FRAMEWORK

1.

Corporations doing business in Georgia are subject to income tax on their Georgia taxable net income, which may be offset with certain tax credits. See O.C.G.A. §§ 48-7-21(a), -29 to -29.8, and -40 to -42. At issue in this case are two tax credits related to jobs created in the state, which are the jobs tax credit ("JTC") and quality jobs tax credit ("QJTC"). See O.C.G.A. §§ 48-7-40, -40.1, -40.17.

2.

The JTC allows an income tax offset for certain employers that create new, full-time jobs, particularly in less developed counties and census tracts in Georgia, to encourage job creation. O.C.G.A. §§ 48-7-40, -40.1. The minimum number of new jobs that must be created and the amount of credit per job created vary based on the relative economic development ranking of the county. See O.C.G.A. §§ 48-7-40(e), -40.1(e). Assuming the jobs are maintained, credits may be claimed for five years, and may be carried forward for ten years. O.C.G.A. §§ 48-7-40(f), -40.1(f), -40(h), -40.1(h).

3.

The QJTC provides a credit for employers that create in the state or transfer into the state at least fifty new "quality jobs." O.C.G.A. § 48-7-40.17. A quality job is defined as a job located in Georgia that has not been previously located in the state, has a regular work week of 30 hours or more, and pays "at or above 110 percent of the average wage of the county in which it is located." O.C.G.A. § 48-7-40.17(a)(2). Unlike the JTC, if a taxpayer's QJTC exceeds its Georgia income tax liability in a given tax year, the excess of such credits may be used against the taxpayer's employer withholding liability. O.C.G.A. § 48-7-40.17(b). The value of the

credit per job depends on the percentage by which the wage exceeds the average wage of the county in which the new quality job is located as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor. O.C.G.A. § 48-7-40.17.

4.

Although a taxpayer may claim both the JTC and QJTC in one return, one job may not be used as the basis for claiming both credits. See O.C.G.A. § 48-7-40.17(b). Specifically, "[a] taxpayer establishing new quality jobs in this state or relocating quality jobs into this state which elects not to receive the tax credits provided for by [the JTC] for such jobs . . . shall be allowed a credit for taxes imposed under this article . . . ." O.C.G.A. § 48-7-40.17(b).

5.

The QJTC statute provides that the "state revenue commissioner shall promulgate any rules and regulations necessary to implement and administer this Code section." O.C.G.A. § 48-7-40.17(g).

6.

For purposes of administering the QJTC, the Georgia Department of Revenue ("Department") promulgated Ga. Comp. R. & Regs. 560-7-8-.51, which provides as follows:

> The taxpayer must elect not to receive [the JTC] for such jobs. This election is deemed to have been made when the taxpayer claims the [QJTC] on its state income tax return. Taxpayers may not alternatively claim [the JTC] and the [QJTC] with respect to such jobs. These credits are not interchangeable. Jobs for which the [JTC] is claimed . . . shall be excluded from all calculations for the [QJTC] under this regulation.

Ga. Comp. R. & Regs. 560-7-8-.51(4)(d).[1]

[1] The regulation was initially promulgated on April 27, 2010, to be effective May 17, 2010. (Foster Aff., ¶ 12.)

III. FINDINGS OF UNDISPUTED MATERIAL FACTS

1.

Sewon America, Inc. ("Sewon") is a domestic corporation formed in Georgia on January 24, 2008. Sewon produces stamped chassis, body components, and decorative trim pieces for Kia Motors Manufacturing Georgia ("Kia Georgia"). Sewon's FEIN is 26-1971648 and its Georgia EIN is 2381860-KP. (Stipulation of Facts, ¶¶ 1-3.)

2.

Sewon files a Georgia corporation tax return annually on a fiscal-year basis for the period of July 1 through June 30. (Stipulation of Facts, ¶ 4.)

3.

Sewon's U.S. headquarters and manufacturing facility is located at 1000 Sewon Boulevard, LaGrange, Georgia 30240. Sewon's manufacturing facility is located in Troup County, Georgia.[2] (Stipulation of Facts, ¶¶ 5, 6).

4.

In conjunction with Kia Georgia's establishment of an automobile manufacturing facility, Sewon established a new manufacturing facility in LaGrange, Georgia in 2008. (Stipulation of Facts, ¶ 7.)

5.

For the tax year ending ("TYE") June 30, 2010, Sewon submitted its amended Georgia corporation tax return, claiming the JTC using credit code 103, as reflected on the Schedule 9 submitted with the amended TYE 2010 return. (Stipulation of Facts, ¶ 9; Joint Exhibit 1.)

[2] For purposes of the JTC, Troup County has been designated a "Tier 2" less-developed county under O.C.G.A. § 48-7-40 since Sewon first located there in 2008. (Stipulation of Facts, ¶ 15.)

6.

For TYE 2011, Sewon submitted its amended Georgia corporation tax return, claiming the JTC using credit code 103, as reflected on the Schedule 9 submitted with the amended TYE 2011 return. (Stipulation of Facts, ¶ 10; Joint Exhibit 2.)

7.

For TYE 2012, Sewon submitted its original Georgia corporation tax return, claiming the JTC using credit code 103, as reflected on the Schedule 9 submitted with the original TYE 2012 return. (Stipulation of Facts, ¶ 11; Joint Exhibit 3.)

8.

For TYE 2013, Sewon submitted its original Georgia corporation tax return, claiming the JTC using credit code 103, as reflected on the Schedule 9. (Stipulation of Facts, ¶ 12; Joint Exhibit 4.)

9.

At the time of filing its original TYE 2013 return, Sewon reported employing over 750 full-time workers at its plant in Troup County as reflected on the Georgia Form IT-CA attached to Sewon's original Georgia corporation tax return submitted for TYE 2013. (Stipulation of Facts, ¶ 13; Joint Exhibit 5.)

10.

Average annual increases in Sewon's employment in Georgia, as reported on the Georgia Form IT-CA attached to Sewon's original corporation tax return submitted for TYE 2013, were as follows:

Tax Period	Increase in Avg. Annual Empl. Over Prior Year
FYE June 30, 2009	25
FYE June 30, 2010	233

FYE June 30, 2011	212
FYE June 30, 2012	254
FYE June 30, 2013	30
Total New Jobs Created	754

(Stipulation of Facts, ¶ 14; Joint Exhibit 5.)

11.

Since 2008, Sewon's facility in Troup County has not been located in an "Opportunity Zone" or "Less Developed Census Tract" as such terms are defined for purposes of the Georgia JTC. (Stipulation of Facts, ¶ 16.)

12.

Sewon was not able to use all of the JTCs it claimed for tax years 2010 through 2014 because the JTCs exceeded its Georgia income tax liability for such years. (Amended Stipulation of Facts, ¶ 17.)

13.

In January 2014, Sewon filed a Form IT-WH "Notice of Intention to Claim Withholding Benefit" with the Department claiming the QJTC for TYE 2013 against Sewon's employer withholding liability. (Stipulation of Facts, ¶ 18; Joint Exhibit 6.)

14.

On March 11, 2015, Sewon filed an amended Georgia corporation tax return for TYE 2013 claiming the QJTC for certain jobs that were originally claimed for the JTC on Sewon's original 2013 corporation tax return, as reflected on the attached Schedule 9, using code 103 for the JTC and 130 for the QJTC. (Stipulation of Facts, ¶ 19; Joint Exhibit 7.)

15.

In December 2014, Sewon filed a Form IT-WH "Notice of Intention to Claim Withholding Benefit" with the Department claiming QJTCs for TYE 2014 against its employer withholding liability. (Stipulation of Facts, ¶ 20; Joint Exhibit 8.)

16.

In March 2015, Sewon file an original Georgia corporation tax return for TYE 2014 claiming the QJTC, as reflected on the attached Schedule 9, using code 103 for the JTC and 130 for the QJTC. (Stipulation of Facts, ¶ 21; Joint Exhibit 9.)

17.

Sewon reported the creation of new full-time jobs at its manufacturing plant in Georgia between 2012 and 2014 that paid higher than the county average wage as reflected on the Forms IT-QJ attached to Sewon's amended 2013 and original 2014 Georgia corporation tax returns. Without stipulating the exact number of jobs established, the parties stipulate, for purposes of this litigation only, that sufficient jobs were created by Sewon such that Sewon would be eligible to claim some amount of the QJTCs for tax years 2013 and 2014 if Sewon's theory of law in the instant appeal were upheld. (Stipulation of Facts, ¶ 22; Joint Exhibits 10, 11.)

18.

On June 5, 2015, Sewon requested a private letter ruling ("Request for Letter Ruling") from the Department with respect to Sewon's qualifications for claiming the QJTC. (Stipulation of Facts, ¶ 23; Joint Exhibit 12.)

19.

On September 15, 2015, the Department issued a private letter ruling stating that Sewon was not eligible to claim QJTCs for tax years 2013 and 2014 because the QJTCs were being claimed for jobs that had originally been claimed for JTCs. Specifically the Respondent stated:

> A taxpayer can claim both the [JTC] and the [QJTC] if they meet all statutory and regulatory requirements for both credits. However, the same jobs may not be claimed. A taxpayer elects which credit will be used for the jobs when the taxpayer first claims either the [JTC] or the [QJTC], and that election cannot be changed. No jobs that were included when the [JTC] was claimed can be included in any calculations for the [QJTC].

(Stipulation of Facts, ¶ 24; Joint Exhibit 13.)

20.

On November 30, 2015, the Department denied the QJTCs Sewon claimed on its amended 2013 income tax return and its original 2014 income tax return. (Stipulation of Facts, ¶ 25; Joint Exhibits 14, 15.)

IV. STANDARD ON SUMMARY JUDGMENT

To prevail on a motion for summary judgment, the moving party must demonstrate that there is no genuine issue as to any material fact as to each element of its claim and that the undisputed facts, when viewed in the light most favorable to the nonmoving party, warrant judgment as a matter of law. O.C.G.A. § 9-11-56(c); see also Lau's Corp., Inc. v. Haskins, 261 Ga. 491, 491 (1991); Zantzinger v. Comm'r, 2014-2 Ga. Tax Tribunal, Jan. 31, 2014.

V. CONCLUSIONS OF LAW

The crux of this case turns on whether Sewon may amend its 2013 and 2014 tax returns in order to elect the QJTC in lieu of the JTC. Petitioner concedes that the QJTC statute limits taxpayers from receiving the benefit of both the JTC and QJTC for the same job. Petitioner contends, however, that it may amend its returns to disclaim the JTC and instead claim the

QJTC. Respondent asserts that for purposes of the QJTC, a taxpayer elects a credit when the taxpayer first claims either the JTC or QJTC and the election may not be altered.

I. The Administrative Procedure Act ("APA")

The underlying theme of this case is whether the QJTC regulation is valid. Essentially, Petitioner asks the Tribunal to invalidate the QJTC regulation as an overextension of the Department's authority. Petitioner also avers that the Respondent's stance in this case amounts to an unwritten policy in violation of the APA.

A. The QJTC regulation is valid.

"The Revenue Commissioner has explicit authority to promulgate regulations 'for the enforcement of [the Public Revenue Code] and the collection of revenues [thereunder].'" Ga. Dep't of Revenue v. Ga. Chemistry Council, Inc., 270 Ga. App. 615, 616 (2004) (quoting O.C.G.A. § 48-2-12(a)). "All duly enacted regulations carry a presumption of validity." Id. at 616-17 (quoting Albany Surgical v. Ga. Dep't of Cmty. Health, 257 Ga. App. 636, 638 (2002)). "The test of the validity of an administrative rule is twofold: whether it is authorized by statute and whether it is reasonable." Id. at 616; see also Chevron U.S.A., Inc. v. Nat. Res. Def. Council, 467 U.S. 837, 842-43 (1984).[3]

First, the Tribunal must determine "whether the statute directly addresses the precise issue" in question. See Jones v. Comm'r, 642 F.3d 459, 462 (4th Cir. 2011). If the General Assembly's intention is clear, then the Tribunal "must give effect to the unambiguously expressed intent" of the legislature. Chevron, 467 U.S. at 842-43. Second, if the statute is silent or ambiguous with respect to a specific issue, "the question for the court is whether the agency's

[3] The Supreme Court of the United States has made clear that Chevron applies in the tax context. See Mayo Found. for Med. Educ. & Research v. United States, 562 U.S. 44, 45-46 (2011). The Supreme Court of Georgia has used Chevron and its progeny in determining whether administrative rules are entitled to deference. Tibbles v. Teachers Ret. Sys. of Ga., 297 Ga. 557, 559-65 (2015).

[interpretation] is based on a permissible construction of the statute." Id. at 843.

i. The QJTC statute is silent regarding election implementation.

The first prong of the Chevron test is met because the QJTC statute is silent as to whether a JTC election can be changed. The first prong of the Chevron analysis "ask[s] whether Congress has 'directly addressed the precise question at issue.'" Mayo, 562 U.S. at 52 (citing Chevron, 467 U.S. at 842-43). The QJTC merely states that a taxpayer must elect *not* to receive the JTC in order to elect the QJTC as to the same underlying jobs. See O.C.G.A. § 48-7-40.17(b). The statute, however, does not specify when an election is made or how an election is made. The statute similarly lacks any indication regarding a taxpayer's ability to amend JTC and QJTC elections.

Petitioner argues that the fact that the General Assembly has used the explicit language "irrevocable election" in numerous instances in the Revenue Code but not in the QJTC or JTC statutes means that the General Assembly did not intend to create an unchangeable election when claiming the JTC. The Tribunal, however, cannot read clear legislative intent into the statute's lack of the term "irrevocable election" for several reasons: (1) the statutory silence is not indicative of legislative intent in this case, (2) the statutes containing the term "irrevocable election" are distinguishable from the QJTC statute, and (3) the General Assembly delegated broad authority to the Department to draft rules and regulations to implement the QJTC statute.

First, construing mere silence as a clear display of the General Assembly's intent is not compelling in this case. In a case overturning a U.S. Tax Court opinion, Judge Posner of the Seventh Circuit stated that the court "would not accept 'audible silence' as a reliable guide to congressional meaning." Lantz v. Comm'r, 607 F.3d 479, 481 (7th Cir. 2010) (holding that "the fact that Congress designated a deadline in two provisions of the same statute and not in a third

[was] not a compelling argument that Congress meant to preclude the Treasury Department from imposing a deadline [in the] third provision); see also Jones, 642 F.3d at 464 (agreeing with the Lantz decision). The Tribunal is likewise hesitant to construe plain language from silence in the context of the QJTC statute.

Moreover, the statutes containing the phrase "irrevocable election" are distinguishable from the QJTC statute. The "irrevocable election" language found in other statutes on which Petitioner relies applies to a choice between alternative credits. See O.C.G.A. §§ 48-7-40.7(b), 48-7-40.8(b), 48-7-40.9(b). Contrastingly, the QJTC and the JTC can both be claimed in the same return, but may not be claimed as to the same underlying jobs. See O.C.G.A. § 48-7-40.17(b). In fact, the QJTC statute uniquely requires renunciation of the JTC as to the same jobs in order to claim the QJTC for those jobs. Petitioner does not point to any other statute with such a requirement. Such distinction provides an alternate explanation for the statute's lack of the phrase "irrevocable election," which is that the General Assembly included the renunciation requirement because it intended that taxpayers could not alternate back and forth once an election was made.

Finally, and of particular importance, the broad language in the QJTC statute allows the Department to promulgate "*any* rules and regulations necessary to implement and administer" the statute. O.C.G.A. § 48-7-40.17(g) (emphasis added). Thus, the statute gives the Department great latitude for filling in gaps left in the statute.[4] Based on the foregoing, the QJTC regulation is authorized by the QJTC statute.

ii. The Department's regulation is reasonable.

The QJTC regulation prohibiting the interchangeable use of credits once a taxpayer has

[4] It can also be noted that since the regulation was enacted in 2010, the General Assembly has convened five times and had the opportunity to change the statute if it disagreed with the Department's interpretation.

made an election of a credit is a reasonable interpretation of the QJTC statute. Because the QJTC statute is silent as to election and implementation, the Tribunal must determine whether the regulation is a "permissible construction of the statute." Jones, 642 F.3d at 464 (quoting Chevron, 467 U.S. at 843). At this stage, the Tribunal must decide whether the Department's adoption of the regulation was a reasonable approach, and it need not decide whether the Department's chosen approach is the best one. See Chevron, 467 U.S. at 843 n. 11. "[C]ourts should give great weight to the interpretation adopted by the administrative agency charged with enforcing [a] statute." Schrenko v. DeKalb Cty. Sch. Dist., 276 Ga. 786, 791 (2003).

Respondent states that the General Assembly intended the limitation of one job for one type of credit to have the same scope so that from one tax year to the next, the taxpayer did not claim a different credit for the same job or alternate between claims for different credits having differing effects for application in prospective years. This is because the tax savings of the QJTC and JTC may be applied in other years and may be carried forward to other tax years. See O.C.G.A. §§ 48-7-40(f), -40(h), -40.1(f), -40.1(h), -40.17(b), and -40.17(d). Once the job has been used as the basis for the credit by a taxpayer, the credit may have use or value in years other than the tax year in which the job was flagged for that credit initially.

Given that the Department is not bound to choose the best interpretation and that courts are required to give great weight to the Department's interpretation, the Tribunal cannot say the QJTC regulation is an impermissible construction of the statutory scheme.

C. Respondent's position does not amount to unwritten policy.

Petitioner argues that because the QJTC and JTC regulations do not state that claiming the JTC on an original return creates an "irrevocable election," Respondent's policy amounts to an unwritten policy in violation of the APA. See O.C.G.A. § 50-13-2(6). The APA sets out

specific procedures that must be followed by state agencies prior to the adoption of any rule, including publication of the proposed rule and the holding of a public hearing concerning the rule.[5] See O.C.G.A. §§ 50-13-4 to 50-13-9. Petitioner states that the unwritten "irrevocable election" policy is a broad statement of agency policy which constitutes a rule per O.C.G.A. § 50-13-2(6). Petitioner therefore concludes that such an unwritten rule violates the APA.

Although the regulation does not contain the term "irrevocable election," the regulation does provide support for Respondent's position. The regulation states, "These credits are not interchangeable." Ga. Comp. R. & Regs. 560-7-8-.51(4)(d)(1). As discussed in further detail below, the Tribunal finds that such language supports Respondent's application of facts to this case even though it does not use the explicit phrase "irrevocable election." Accordingly, Respondent's stance in this case does not amount to an unwritten policy.

II. Application of the QJTC Statute and Regulation

Although the Tribunal finds that the Department's regulation is valid, the Tribunal's *de novo* review necessarily includes its own analysis of how the facts in this case apply to the Department's regulation. See Ga. Comp. R. & Regs. 616-1-3-.11(a). "The exemption from taxation must be strictly construed . . . ." Cherokee Brick & Tile Co. v. Redwine, 209 Ga. 691, 692-93 (1953). The same principle of construction applies to tax credits. Ga. Chemistry Council, Inc., 270 Ga. App. at 618. Accordingly, Petitioner must prove by a preponderance of the evidence that it is entitled to claim the QJTC. See Ga. Comp R. & Regs. 616-1-3-.11(b), (c).

The regulation specifically precludes an interchangeable use of the credits. See Ga. Comp. R. & Regs. 560-7-8-.51(4)(d)(1). The word "interchangeable" means "capable of being interchanged; especially: permitting mutual substitution." "Interchangeable," Merriam-

[5] The record contains no evidence that the enactment of the QJTC regulation violated the APA's adoption procedures. Rather, Petitioner contends that Respondent's *policy* violates the APA.

Webster.com, https://www.merriam-webster.com/dictionary/interchangeable. The regulation further states that "[t]axpayers may not alternately claim the [JTC] and the [QJTC] with respect to such jobs." Ga. Comp. R. & Regs. 560-7-8-.51(4)(d)(1).

When one reads the QJTC statute and the QJTC regulation together, Petitioner's compelling argument cannot prevail. The statute clearly states that a taxpayer may not use the JTC and the QJTC for the same jobs, and the regulation further clarifies that the taxpayer may not interchange or alternately claim—or switch back and forth—between the credits with respect to the same underlying jobs. Petitioner is attempting to do just that.

When Sewon submitted its amended 2013 return to seek the QJTC, it submitted the required Form IT-QJ. For purposes of designating the jobs which were to qualify for the QJTC, Sewon chose the fiscal year ending in July 2012 as the "first" year, so that the starting month of the one-year period in which the jobs would qualify as new quality jobs was July 2011. As a result, fiscal year 2011 is the "prior" year used to determine whether such one-year period exceeds the monthly average of new quality jobs that existed in the prior twelve-month period by fifty in order to qualify to claim the QJTC. However, in both fiscal year 2011 and fiscal year 2012, Petitioner already elected to receive the JTC and had used those jobs as a basis to claim the JTC. Petitioner is barred from changing the 2011 and 2012 credit election based on the statute of limitations. See O.C.G.A. § 48-7-40.17(e). Accordingly, even if Petitioner is permitted to amend its 2013 and 2014 tax returns, it already claimed the JTC for the underlying jobs in 2012 and prior years, and is precluded from switching to the QJTC for those jobs in accordance with the regulation the Tribunal is upholding. Consequently, Petitioner has failed to meet its burden to prove it is entitled to receive the QJTC in lieu of the prior-elected JTC in this case.

III. Petitioner's Fairness Arguments

Petitioner makes two fairness arguments in its briefs, the first being that because the JTC does not mention the QJTC, taxpayers are left with no warning as to the consequences of claiming the JTC. Petitioner contends that if the limitation was intended to be applied in the manner argued by Respondent, it would be in the JTC statute itself, "not buried in the statute for a different credit that is not even referenced in the JTC statute, thereby giving a taxpayer fair notice of such restriction." The legislation creating the QJTC, however, was passed after the statutes allowing for the JTC. See 2000 Ga. Laws 605, 1989 Ga. Laws 905, and 1993 Ga. Laws 1649. Additionally, the limiting language was in the initial 2000 legislation creating the QJTC, before Petitioner made its 2010 claim for the JTC, so the taxpayer should have been on notice. See 2000 Ga. Laws 605. Finally, the regulation relating to the JTC states:

> Taxpayers may not claim or carry forward the [JTC] for any jobs for which . . . the [QJTC] is claimed . . . . Neither may taxpayers alternatively claim the [JTC] and . . . the [QJTC] with respect to such jobs. These credits are not interchangeable.

Ga. Comp. R. & Regs. 560-7-8-.36(11)(b). The regulation therefore provides sufficient notice of the interaction between the credits.

Second, Petitioner argues that it has been unable to benefit from the JTC because it has had net operating losses or net operating loss carryforwards that limited its Georgia income tax liability for tax years 2009-2014. Unlike the JTC, if a taxpayer's QJTC exceeds its Georgia income tax liability in a given tax year, the excess of such credits may be used against the taxpayer's withholding liability. O.C.G.A. § 48-7-40.17(b). While it is true that the benefits of the QJTC would seem to outweigh the benefits of the JTC in retrospect, the Tribunal is not aware of any authority it has to alter the outcome of this case based on this type of fairness argument.

VI. CONCLUSION

In accordance with the Findings of Facts and Conclusions of Law, Respondent's Motion for Summary Judgment is **GRANTED** and Petitioner's Motion for Summary Judgment is **DENIED.**

SO ORDERED, this 24 day of January, 2017.

Lawrence E. O'Neal

LAWRENCE E. O'NEAL, JR.
CHIEF JUDGE
GEORGIA TAX TRIBUNAL

SEWON AMERICA, INC.

PETITIONER

PETER STATHOPOULOS, ESQ.
KRISTI STATHOPOULOS, ESQ.
MACEY WILENSKY HENNINGS, LLC

ATTORNEYS FOR PETITIONER, SEWON AMERICA, INC.

CHRISTOPHER M. CARR, Attorney General, W. WRIGHT BANKS, JR., Deputy Attorney General, ALEX F. SPONSELLER, Senior Assistant Attorney General, SUSAN L. RUTHERFORD, Senior Assistant Attorney General

ATTORNEYS FOR RESPONDENT, LYNNETTE T. RILEY, Commissioner, Georgia Department of Revenue