

HOUSE BILL 531

Q3, F2

71r2201

By: **Delegates Frank, Aumann, Bartlett, Boteler, Dwyer, Eckardt, Elliott, Elmore, George, Haddaway, Jennings, J. King, Kipke, Kramer, Krebs, McComas, McConkey, Morhaim, Shank, Shewell, Smigiel, Sossi, Stocksdales, Weir, and Weldon**

Introduced and read first time: February 7, 2007

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Tax Credit - Donations for Scholarships at Institutions of**
3 **Higher Education**

4 FOR the purpose of allowing a credit against the State income tax for contributions
5 made to certain institutions of higher education or certain affiliated foundations
6 to be used for scholarships for students; requiring the Maryland Higher
7 Education Commission to administer the tax credit; requiring a business entity
8 to submit a certain application within a certain time period and to make a
9 contribution to an institution of higher education or affiliated foundation and to
10 provide certain notice within a certain time period; requiring the Commission to
11 adopt certain regulations jointly with the Comptroller; requiring the
12 Commission to approve certain applications within a certain time period and in
13 a certain manner; requiring the Commission to rescind certain tax credit
14 certificates if certain notice is not provided within a certain time period;
15 providing limits on the amount of certain tax credits and the aggregate amount
16 of tax credits that may be approved by the Commission in a calendar year;
17 providing that certain unused tax credits may not be carried forward; requiring
18 the Commission to submit a certain report by a certain date each year;
19 requiring a certain additional modification under the State income tax if a
20 certain tax credit is claimed; defining certain terms; providing for the
21 application of this Act; and generally related to a State income tax credit for
22 contributions made to institutions of higher education or affiliated foundations
23 to be used for scholarships for students.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
2 Article – Tax – General
3 Section 10–205(a) and 10–306(a)
4 Annotated Code of Maryland
5 (2004 Replacement Volume and 2006 Supplement)

6 BY adding to
7 Article – Tax – General
8 Section 10–205(j), 10–306(f), and 10–726
9 Annotated Code of Maryland
10 (2004 Replacement Volume and 2006 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Tax – General**

14 10–205.

15 (a) In addition to the modification under § 10–204 of this subtitle, the
16 amounts under this section are added to the federal adjusted gross income of a
17 resident to determine Maryland adjusted gross income.

18 **(J) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**
19 **THE AMOUNT OF A CREDIT CLAIMED UNDER § 10–726 OF THIS TITLE FOR A**
20 **CONTRIBUTION MADE TO AN INSTITUTION OF HIGHER EDUCATION OR**
21 **AFFILIATED FOUNDATION.**

22 10–306.

23 (a) In addition to the modification under § 10–305 of this subtitle, the
24 amounts under this section are added to the federal taxable income of a corporation to
25 determine Maryland modified income.

26 **(F) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**
27 **THE AMOUNT OF A CREDIT CLAIMED UNDER § 10–726 OF THIS TITLE FOR A**
28 **CONTRIBUTION MADE TO AN INSTITUTION OF HIGHER EDUCATION OR**
29 **AFFILIATED FOUNDATION.**

30 **10–726.**

1 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
2 MEANINGS INDICATED.

3 (2) “AFFILIATED FOUNDATION” MEANS AN ORGANIZATION
4 EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE
5 CODE AFFILIATED WITH AN INSTITUTION OF HIGHER EDUCATION FOR THE
6 PURPOSE OF FUNDRAISING.

7 (3) “BUSINESS ENTITY” MEANS:

8 (I) A PERSON CONDUCTING OR OPERATING A TRADE OR
9 BUSINESS IN MARYLAND; OR

10 (II) AN ORGANIZATION OPERATING IN MARYLAND THAT IS
11 EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE
12 CODE.

13 (4) “COMMISSION” MEANS THE MARYLAND HIGHER EDUCATION
14 COMMISSION.

15 (5) “CONTRIBUTION” MEANS A MONETARY DONATION.

16 (6) “INSTITUTION OF HIGHER EDUCATION” MEANS:

17 (I) A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION AS
18 DEFINED IN § 10-101(J) OF THE EDUCATION ARTICLE; OR

19 (II) A PRIVATE NONPROFIT INSTITUTION OF HIGHER
20 EDUCATION THAT IS:

21 1. APPROVED BY THE COMMISSION; AND

22 2. ACCREDITED BY THE COMMISSION ON HIGHER
23 EDUCATION OF THE MIDDLE STATES ASSOCIATION OF COLLEGES AND
24 SCHOOLS.

25 (B) (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, A BUSINESS
26 ENTITY MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT
27 EQUAL TO 75% OF A CONTRIBUTION MADE TO AN INSTITUTION OF HIGHER

1 EDUCATION OR AN AFFILIATED FOUNDATION TO BE USED FOR SCHOLARSHIPS
2 FOR STUDENTS.

3 (2) A CREDIT CLAIMED BY A BUSINESS ENTITY UNDER THIS
4 SECTION MAY NOT EXCEED \$200,000 ANNUALLY.

5 (C) AT LEAST 30 DAYS PRIOR TO MAKING A CONTRIBUTION TO AN
6 INSTITUTION OF HIGHER EDUCATION OR AN AFFILIATED FOUNDATION, A
7 BUSINESS ENTITY SHALL APPLY TO THE COMMISSION FOR AN INITIAL CREDIT
8 CERTIFICATE.

9 (D) THE COMMISSION SHALL:

10 (1) ADOPT REGULATIONS JOINTLY WITH THE COMPTROLLER TO
11 IMPLEMENT THIS SECTION;

12 (2) APPROVE ALL APPLICATIONS FOR TAX CREDITS UNDER THIS
13 SECTION ON A FIRST-COME, FIRST-SERVED BASIS;

14 (3) WITHIN 30 DAYS AFTER RECEIVING AN APPLICATION, ISSUE
15 AN INITIAL TAX CREDIT CERTIFICATE AS PROVIDED UNDER THIS SECTION
16 STATING THE MAXIMUM AMOUNT OF THE TAX CREDIT FOR WHICH A BUSINESS
17 ENTITY IS ELIGIBLE OR PROVIDE NOTICE OF REJECTION OF THE APPLICATION
18 THAT CONTAINS AN EXPLANATION OF THE REASON FOR REJECTION; AND

19 (4) WITHIN 30 DAYS AFTER RECEIVING NOTICE OF A
20 CONTRIBUTION MADE TO AN INSTITUTION OF HIGHER EDUCATION OR AN
21 AFFILIATED FOUNDATION ISSUE A FINAL CREDIT CERTIFICATE AS PROVIDED
22 UNDER THIS SECTION.

23 (E) (1) AFTER THE COMMISSION HAS ISSUED AN INITIAL CREDIT
24 CERTIFICATE UNDER THIS SECTION, THE BUSINESS ENTITY SHALL HAVE 30
25 DAYS TO MAKE A CONTRIBUTION TO AN INSTITUTION OF HIGHER EDUCATION OR
26 AN AFFILIATED FOUNDATION.

27 (2) WITHIN 30 DAYS AFTER MAKING A CONTRIBUTION TO AN
28 INSTITUTION OF HIGHER EDUCATION OR AN AFFILIATED FOUNDATION, A
29 BUSINESS ENTITY SHALL PROVIDE NOTICE TO THE COMMISSION OF THE
30 CONTRIBUTION AND THE AMOUNT OF THE CONTRIBUTION.

1 **(3) IF A BUSINESS ENTITY FAILS TO MAKE A CONTRIBUTION TO**
2 **AN INSTITUTION OF HIGHER EDUCATION OR AN AFFILIATED FOUNDATION**
3 **WITHIN 30 DAYS AFTER RECEIVING AN INITIAL CREDIT CERTIFICATE, THE**
4 **COMMISSION SHALL RESCIND THE INITIAL CREDIT CERTIFICATE.**

5 **(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
6 **SUBSECTION, THE MAXIMUM TOTAL AMOUNT OF TAX CREDITS THAT THE**
7 **COMMISSION MAY ISSUE IN INITIAL CREDIT CERTIFICATES IS \$25,000,000 IN**
8 **EACH CALENDAR YEAR.**

9 **(2) IF AN INITIAL CREDIT CERTIFICATE HAS BEEN RESCINDED BY**
10 **THE COMMISSION, THE COMMISSION MAY APPROVE ADDITIONAL INITIAL**
11 **CREDIT CERTIFICATES FOR OTHER BUSINESS ENTITIES THAT MAY NOT EXCEED**
12 **THE AMOUNT OF TAX CREDITS APPROVED IN THE INITIAL CREDIT**
13 **CERTIFICATES THAT WERE RESCINDED.**

14 **(3) IN EACH CALENDAR YEAR, THE COMMISSION MAY NOT**
15 **APPROVE INITIAL CREDIT CERTIFICATES THAT:**

16 **(I) EXCEED \$15,000,000 FOR CONTRIBUTIONS TO PUBLIC**
17 **SENIOR HIGHER EDUCATION INSTITUTIONS AND THEIR AFFILIATED**
18 **FOUNDATIONS; OR**

19 **(II) EXCEED \$10,000,000 FOR CONTRIBUTIONS TO PRIVATE**
20 **NONPROFIT INSTITUTIONS OF HIGHER EDUCATION AND THEIR AFFILIATED**
21 **FOUNDATIONS.**

22 **(G) ANY UNUSED AMOUNT OF THE CREDIT MAY NOT BE CARRIED OVER**
23 **TO ANY OTHER TAXABLE YEAR.**

24 **(H) (1) ON OR BEFORE JANUARY 10 OF EACH YEAR, THE**
25 **COMMISSION SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF**
26 **THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON THE**
27 **CREDITS APPROVED UNDER THIS SECTION.**

28 **(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**
29 **SUBSECTION SHALL INCLUDE FOR EACH BUSINESS ENTITY APPROVED TO**
30 **RECEIVE A FINAL CREDIT CERTIFICATE IN THE PRIOR CALENDAR YEAR:**

- 1 **(I) THE NAME AND ADDRESS OF THE BUSINESS ENTITY;**
2 **(II) THE NAME AND ADDRESS OF THE INSTITUTION OF**
3 **HIGHER EDUCATION OR AFFILIATED FOUNDATION; AND**
4 **(III) THE AMOUNT OF THE APPROVED FINAL CREDIT**
5 **CERTIFICATE.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2007, and shall be applicable to all taxable years beginning after December 31,
8 2007.