

HOUSE BILL 450

Q3

4r1683
CF SB 486

By: **Delegates Hixson, Harper, A. Miller, Serafini, Stukes, Summers, and A. Washington**

Introduced and read first time: January 27, 2014

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2014

CHAPTER _____

1 AN ACT concerning

2 **Income Tax Credit – Endow Maryland**

3 FOR the purpose of allowing a credit against the State income tax for a certain
4 amount of donations to certain qualified permanent endowment funds at certain
5 community foundations; requiring certain taxpayers to add a certain deduction
6 back to federal adjusted gross income to determine Maryland adjusted gross
7 income; providing for the carry forward of the credit; requiring the Department
8 of Housing and Community Development, on application of a taxpayer, to issue
9 a tax credit certificate under certain circumstances; requiring the application to
10 contain certain information; providing for the maximum amount of a tax credit
11 certificate that may be issued; requiring the Department to reserve a certain
12 amount of credits for donations under a certain amount; requiring the
13 Department to approve applications on a first-come, first-served basis and
14 ~~within a certain number of days of receipt of the application in a timely manner;~~
15 providing that the total number of applications certified by the Department may
16 not exceed a certain amount for each taxable year; providing that excess tax
17 credits not certified during a taxable year may be carried over and certified
18 during the next taxable year; requiring the Department to report certain
19 information to the State Department of Assessments and Taxation and the
20 Comptroller on or before a certain date each year; requiring the Department to
21 ~~publish a certain list and~~ adopt certain regulations; defining certain terms;
22 providing for the application of this Act; and generally relating to a State
23 income tax credit for certain donations to certain endowment funds.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,
2 Article – Tax – General
3 Section 10–204(a) and 10–305(a)
4 Annotated Code of Maryland
5 (2010 Replacement Volume and 2013 Supplement)

6 BY adding to
7 Article – Tax – General
8 Section 10–204(l) and 10–736
9 Annotated Code of Maryland
10 (2010 Replacement Volume and 2013 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Tax – General
13 Section 10–305(d)
14 Annotated Code of Maryland
15 (2010 Replacement Volume and 2013 Supplement)

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

18 **Article – Tax – General**

19 10–204.

20 (a) To the extent excluded from federal adjusted gross income, the amounts
21 under this section are added to the federal adjusted gross income of a resident to
22 determine Maryland adjusted gross income.

23 **(L) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**
24 **ANY AMOUNT DEDUCTED AS A DONATION, AS DEFINED UNDER § 10–736 OF THIS**
25 **TITLE, TO THE EXTENT THAT THE AMOUNT OF THE DONATION IS INCLUDED IN**
26 **AN APPLICATION FOR A CREDIT THAT IS CERTIFIED UNDER § 10–736 OF THIS**
27 **TITLE.**

28 10–305.

29 (a) To the extent excluded from federal taxable income, the amounts under
30 this section are added to the federal taxable income of a corporation to determine
31 Maryland modified income.

32 (d) The addition under subsection (a) of this section includes the additions
33 required for an individual under:

34 (1) § 10–204(b) of this title (Dividends and interest from another state
35 or local obligation);

- 1 (2) § 10–204(c)(2) of this title (Federal tax–exempt income);
- 2 (3) § 10–204(e) of this title (Oil percentage depletion allowance);
- 3 (4) § 10–204(i) of this title (Deduction for qualified production
4 activities income); [and]
- 5 (5) § 10–204(j) of this title (Deduction for costs for security clearance
6 administrative expenses and construction and equipment costs incurred to construct
7 or renovate a sensitive compartmented information facility); AND
- 8 **(6) § 10–204(L) OF THIS TITLE (DEDUCTION FOR DONATIONS TO
9 QUALIFIED PERMANENT ENDOWMENT FUNDS).**

10 **10–736.**

11 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
12 MEANINGS INDICATED.**

13 **(2) “DEPARTMENT” MEANS THE DEPARTMENT OF HOUSING AND
14 COMMUNITY DEVELOPMENT.**

15 **(3) “DONATION” MEANS AN IRREVOCABLE GIFT WORTH \$500 OR
16 MORE OF:**

17 **(I) CASH ~~OR~~; OR**

18 **(II) PUBLICLY TRADED SECURITIES.**

19 **(4) “ELIGIBLE COMMUNITY FOUNDATION” MEANS AN
20 ORGANIZATION THAT:**

21 **(I) IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE
22 INTERNAL REVENUE CODE;**

23 **(II) IS COMMONLY KNOWN AS A COMMUNITY TRUST, FUND,
24 ENDOWMENT, OR FOUNDATION OR BY ANOTHER SIMILAR NAME THAT CONVEYS
25 THE CONCEPT OF A CAPITAL OR ENDOWMENT FUND TO SUPPORT CHARITABLE
26 ACTIVITIES IN THE COMMUNITY OR AREA THAT IT SERVES;**

27 **(III) SATISFIES THE PUBLIC SUPPORT TEST OF §
28 170(B)(1)(A)(VI) OF THE INTERNAL REVENUE CODE AND REGULATIONS
29 ADOPTED UNDER THAT SECTION; AND**

1 **(IV) IS IN COMPLIANCE WITH NATIONAL STANDARDS FOR**
2 **UNITED STATES COMMUNITY FOUNDATIONS ESTABLISHED BY THE COMMUNITY**
3 **FOUNDATIONS NATIONAL STANDARDS BOARD WITHIN THE COUNCIL ON**
4 **FOUNDATIONS.**

5 **(5) “QUALIFIED PERMANENT ENDOWMENT FUND” MEANS A FUND**
6 **THAT:**

7 **(I) IS HELD IN PERPETUITY BY AN ELIGIBLE COMMUNITY**
8 **FOUNDATION;**

9 **(II) IS USED FOR THE BENEFIT OF CHARITABLE CAUSES IN**
10 **THE STATE; AND**

11 **(III) HAS AN ANNUAL SPENDING RATE OF 5% OR LESS**
12 **CALCULATED USING A 12-QUARTER TRAILING AVERAGE OF THE TOTAL AMOUNT**
13 **OF THE FUND.**

14 **(B) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, FOR THE**
15 **TAXABLE YEAR IN WHICH A TAXPAYER MAKES A DONATION TO A QUALIFIED**
16 **PERMANENT ENDOWMENT FUND AT AN ELIGIBLE COMMUNITY FOUNDATION,**
17 **THE TAXPAYER MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE**
18 **AMOUNT STATED ON THE TAX CREDIT CERTIFICATE ISSUED UNDER SUBSECTION**
19 **(C) OF THIS SECTION.**

20 **(2) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY**
21 **TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR,**
22 **ANY UNUSED CREDIT MAY BE CARRIED FORWARD AND APPLIED FOR**
23 **SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:**

24 **(I) THE FULL AMOUNT OF THE CREDIT IS USED; OR**

25 **(II) THE EXPIRATION OF THE FIFTH YEAR AFTER THE**
26 **TAXABLE YEAR FOR WHICH THE CREDIT WAS ALLOWED.**

27 **(C) (1) ON APPLICATION BY A TAXPAYER, THE DEPARTMENT SHALL**
28 **ISSUE A CREDIT CERTIFICATE IN THE AMOUNT OF 25% OF A PROPOSED**
29 **DONATION TO A QUALIFIED PERMANENT ENDOWMENT FUND AT AN ELIGIBLE**
30 **COMMUNITY FOUNDATION THAT MEETS THE REQUIREMENTS OF THIS SECTION.**

31 **(2) THE APPLICATION SHALL CONTAIN:**

1 (I) THE NAMES OF THE TAXPAYER, THE ELIGIBLE
2 COMMUNITY FOUNDATION, AND THE QUALIFIED PERMANENT ENDOWMENT
3 FUND TO WHICH THE DONATION WILL BE MADE;

4 (II) THE TAXABLE YEAR IN WHICH THE DONATION WILL BE
5 MADE;

6 (III) THE AMOUNT OF THE DONATION; AND

7 (IV) ANY OTHER INFORMATION THAT THE DEPARTMENT
8 REQUIRES.

9 (3) FOR ANY TAXABLE YEAR, THE MAXIMUM AMOUNT OF TAX
10 CREDIT STATED IN THE TAX CREDIT CERTIFICATE MAY NOT EXCEED \$50,000.

11 (4) THE DEPARTMENT SHALL:

12 (I) RESERVE FOR EACH TAXABLE YEAR AT LEAST 10% OF
13 THE AVAILABLE CREDITS FOR DONATIONS OF \$30,000 OR LESS; AND

14 (II) APPROVE ALL APPLICATIONS THAT QUALIFY FOR A TAX
15 CREDIT CERTIFICATE UNDER THIS SUBSECTION:

16 1. ON A FIRST-COME, FIRST-SERVED BASIS; AND

17 2. ~~WITHIN 30 DAYS OF RECEIPT OF AN APPLICATION~~
18 IN A TIMELY MANNER.

19 (5) (I) FOR EACH TAXABLE YEAR, THE TOTAL AMOUNT OF TAX
20 CREDIT CERTIFICATES CERTIFIED BY THE DEPARTMENT UNDER THIS SECTION
21 MAY NOT EXCEED ~~\$1,000,000~~ \$250,000.

22 (II) IF THE AGGREGATE AMOUNT OF TAX CREDIT
23 CERTIFICATES AUTHORIZED UNDER THIS SECTION DURING A TAXABLE YEAR
24 TOTAL LESS THAN THE AMOUNT AUTHORIZED UNDER THIS PARAGRAPH, ANY
25 EXCESS AMOUNT MAY BE AUTHORIZED UNDER TAX CREDIT CERTIFICATES FOR
26 THE NEXT TAXABLE YEAR.

27 ~~(D) ON JANUARY 1 OF EACH TAXABLE YEAR, THE DEPARTMENT SHALL~~
28 ~~PUBLISH A LIST OF ALL TAXPAYERS IN THE PRIOR TAXABLE YEAR THAT HAVE~~
29 ~~BEEN ISSUED A TAX CREDIT CERTIFICATE AND INCLUDE THE MAXIMUM AMOUNT~~
30 ~~OF TAX CREDIT ALLOWED.~~

1 **(D) ON OR BEFORE JANUARY 31 OF EACH TAXABLE YEAR, THE**
2 **DEPARTMENT SHALL REPORT TO THE STATE DEPARTMENT OF ASSESSMENTS**
3 **AND TAXATION AND THE COMPTROLLER THE DONATIONS THAT THE**
4 **DEPARTMENT HAS APPROVED FOR TAX CREDIT CERTIFICATES UNDER THIS**
5 **SECTION DURING THE PRIOR TAXABLE YEAR.**

6 **(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE**
7 **PROVISIONS OF THIS SECTION, INCLUDING THE CRITERIA AND PROCEDURES**
8 **FOR APPLICATION FOR, APPROVAL OF, AND MONITORING ELIGIBILITY FOR THE**
9 **TAX CREDIT AUTHORIZED UNDER THIS SECTION.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 July 1, 2014, and shall be applicable to all taxable years beginning after December 31,
12 ~~2013~~ 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.