

# SENATE BILL 486

Q3

4r1428  
CF HB 450

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By: **Senators Manno and Middleton**

Introduced and read first time: January 27, 2014

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 13, 2014

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## 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.

24 BY repealing and reenacting, without amendments,

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**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 Article – Tax – General  
2 Section 10–204(a) and 10–305(a)  
3 Annotated Code of Maryland  
4 (2010 Replacement Volume and 2013 Supplement)

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

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

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

17 **Article – Tax – General**

18 10–204.

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

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

27 10–305.

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

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

33 (1) § 10–204(b) of this title (Dividends and interest from another state  
34 or local obligation);

35 (2) § 10–204(c)(2) of this title (Federal tax–exempt income);

1 (3) § 10–204(e) of this title (Oil percentage depletion allowance);

2 (4) § 10–204(i) of this title (Deduction for qualified production  
3 activities income); [and]

4 (5) § 10–204(j) of this title (Deduction for costs for security clearance  
5 administrative expenses and construction and equipment costs incurred to construct  
6 or renovate a sensitive compartmented information facility); AND

7 (6) § 10–204(L) OF THIS TITLE (DEDUCTION FOR DONATIONS TO  
8 QUALIFIED PERMANENT ENDOWMENT FUNDS).

9 10–736.

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

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

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

16 (I) CASH ~~OR~~; OR

17 (II) PUBLICLY TRADED SECURITIES.

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

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

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

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

29 (IV) IS IN COMPLIANCE WITH NATIONAL STANDARDS FOR  
30 UNITED STATES COMMUNITY FOUNDATIONS ESTABLISHED BY THE COMMUNITY

1 FOUNDATIONS NATIONAL STANDARDS BOARD WITHIN THE COUNCIL ON  
2 FOUNDATIONS.

3 (5) "QUALIFIED PERMANENT ENDOWMENT FUND" MEANS A FUND  
4 THAT:

5 (I) IS HELD IN PERPETUITY BY AN ELIGIBLE COMMUNITY  
6 FOUNDATION;

7 (II) IS USED FOR THE BENEFIT OF CHARITABLE CAUSES IN  
8 THE STATE; AND

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

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

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

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

23 (II) THE EXPIRATION OF THE FIFTH YEAR AFTER THE  
24 TAXABLE YEAR FOR WHICH THE CREDIT WAS ALLOWED.

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

29 (2) THE APPLICATION SHALL CONTAIN:

30 (I) THE NAMES OF THE TAXPAYER, THE ELIGIBLE  
31 COMMUNITY FOUNDATION, AND THE QUALIFIED PERMANENT ENDOWMENT  
32 FUND TO WHICH THE DONATION WILL BE MADE;

1                   (II) THE TAXABLE YEAR IN WHICH THE DONATION WILL BE  
2 MADE;

3                   (III) THE AMOUNT OF THE DONATION; AND

4                   (IV) ANY OTHER INFORMATION THAT THE DEPARTMENT  
5 REQUIRES.

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

8                   (4) THE DEPARTMENT SHALL:

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

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

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

14                                 2. ~~WITHIN 30 DAYS OF RECEIPT OF AN APPLICATION~~  
15 IN A TIMELY MANNER.

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

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

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

28                   (D) ON OR BEFORE JANUARY 31 OF EACH TAXABLE YEAR, THE  
29 DEPARTMENT SHALL REPORT TO THE STATE DEPARTMENT OF ASSESSMENTS  
30 AND TAXATION AND THE COMPTROLLER THE DONATIONS THAT THE  
31 DEPARTMENT HAS APPROVED FOR TAX CREDIT CERTIFICATES UNDER THIS  
32 SECTION DURING THE PRIOR TAXABLE YEAR.

1           **(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE**  
2 **PROVISIONS OF THIS SECTION, INCLUDING THE CRITERIA AND PROCEDURES**  
3 **FOR APPLICATION FOR, APPROVAL OF, AND MONITORING ELIGIBILITY FOR THE**  
4 **TAX CREDIT AUTHORIZED UNDER THIS SECTION.**

5           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 July 1, 2014, and shall be applicable to all taxable years beginning after December 31,  
7 ~~2013~~ 2014.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.