

SENATE BILL 486

Q3

4r1428
CF HB 450

By: **Senators Manno and Middleton**

Introduced and read first time: January 27, 2014

Assigned to: Budget and Taxation

A BILL ENTITLED

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; providing that the
15 total number of applications certified by the Department may not exceed a
16 certain amount for each taxable year; providing that excess tax credits not
17 certified during a taxable year may be carried over and certified during the next
18 taxable year; requiring the Department to publish a certain list and adopt
19 certain regulations; defining certain terms; providing for the application of this
20 Act; and generally relating to a State income tax credit for certain donations to
21 certain endowment funds.

22 BY repealing and reenacting, without amendments,
23 Article – Tax – General
24 Section 10–204(a) and 10–305(a)
25 Annotated Code of Maryland
26 (2010 Replacement Volume and 2013 Supplement)

27 BY adding to
28 Article – Tax – General
29 Section 10–204(l) and 10–736

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2013 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Tax – General
5 Section 10–305(d)
6 Annotated Code of Maryland
7 (2010 Replacement Volume and 2013 Supplement)

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

10 **Article – Tax – General**

11 10–204.

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

15 **(L) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**
16 **ANY AMOUNT DEDUCTED AS A DONATION, AS DEFINED UNDER § 10–736 OF THIS**
17 **TITLE, TO THE EXTENT THAT THE AMOUNT OF THE DONATION IS INCLUDED IN**
18 **AN APPLICATION FOR A CREDIT THAT IS CERTIFIED UNDER § 10–736 OF THIS**
19 **TITLE.**

20 10–305.

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

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

26 (1) § 10–204(b) of this title (Dividends and interest from another state
27 or local obligation);

28 (2) § 10–204(c)(2) of this title (Federal tax–exempt income);

29 (3) § 10–204(e) of this title (Oil percentage depletion allowance);

30 (4) § 10–204(i) of this title (Deduction for qualified production
31 activities income); [and]

1 (5) § 10–204(j) of this title (Deduction for costs for security clearance
2 administrative expenses and construction and equipment costs incurred to construct
3 or renovate a sensitive compartmented information facility); AND

4 (6) § 10–204(L) OF THIS TITLE (DEDUCTION FOR DONATIONS TO
5 QUALIFIED PERMANENT ENDOWMENT FUNDS).

6 **10–736.**

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

9 (2) “DEPARTMENT” MEANS THE DEPARTMENT OF HOUSING AND
10 COMMUNITY DEVELOPMENT.

11 (3) “DONATION” MEANS AN IRREVOCABLE GIFT OF CASH OR
12 PUBLICLY TRADED SECURITIES.

13 (4) “ELIGIBLE COMMUNITY FOUNDATION” MEANS AN
14 ORGANIZATION THAT:

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

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

21 (III) SATISFIES THE PUBLIC SUPPORT TEST OF §
22 170(B)(1)(A)(VI) OF THE INTERNAL REVENUE CODE AND REGULATIONS
23 ADOPTED UNDER THAT SECTION; AND

24 (IV) IS IN COMPLIANCE WITH NATIONAL STANDARDS FOR
25 UNITED STATES COMMUNITY FOUNDATIONS ESTABLISHED BY THE COMMUNITY
26 FOUNDATIONS NATIONAL STANDARDS BOARD WITHIN THE COUNCIL ON
27 FOUNDATIONS.

28 (5) “QUALIFIED PERMANENT ENDOWMENT FUND” MEANS A FUND
29 THAT:

30 (I) IS HELD IN PERPETUITY BY AN ELIGIBLE COMMUNITY
31 FOUNDATION;

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

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

6 **(B) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, FOR THE**
7 **TAXABLE YEAR IN WHICH A TAXPAYER MAKES A DONATION TO A QUALIFIED**
8 **PERMANENT ENDOWMENT FUND AT AN ELIGIBLE COMMUNITY FOUNDATION,**
9 **THE TAXPAYER MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE**
10 **AMOUNT STATED ON THE TAX CREDIT CERTIFICATE ISSUED UNDER SUBSECTION**
11 **(C) OF THIS SECTION.**

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

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

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

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

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

24 **(I) THE NAMES OF THE TAXPAYER, THE ELIGIBLE**
25 **COMMUNITY FOUNDATION, AND THE QUALIFIED PERMANENT ENDOWMENT**
26 **FUND TO WHICH THE DONATION WILL BE MADE;**

27 **(II) THE TAXABLE YEAR IN WHICH THE DONATION WILL BE**
28 **MADE;**

29 **(III) THE AMOUNT OF THE DONATION; AND**

30 **(IV) ANY OTHER INFORMATION THAT THE DEPARTMENT**
31 **REQUIRES.**

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

3 **(4) THE DEPARTMENT SHALL:**

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

6 **(II) APPROVE ALL APPLICATIONS THAT QUALIFY FOR A TAX**
7 **CREDIT CERTIFICATE UNDER THIS SUBSECTION:**

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

9 2. **WITHIN 30 DAYS OF RECEIPT OF AN APPLICATION.**

10 **(5) (I) FOR EACH TAXABLE YEAR, THE TOTAL AMOUNT OF TAX**
11 **CREDIT CERTIFICATES CERTIFIED BY THE DEPARTMENT UNDER THIS SECTION**
12 **MAY NOT EXCEED \$1,000,000.**

13 **(II) IF THE AGGREGATE AMOUNT OF TAX CREDIT**
14 **CERTIFICATES AUTHORIZED UNDER THIS SECTION DURING A TAXABLE YEAR**
15 **TOTAL LESS THAN THE AMOUNT AUTHORIZED UNDER THIS PARAGRAPH, ANY**
16 **EXCESS AMOUNT MAY BE AUTHORIZED UNDER TAX CREDIT CERTIFICATES FOR**
17 **THE NEXT TAXABLE YEAR.**

18 **(D) ON JANUARY 1 OF EACH TAXABLE YEAR, THE DEPARTMENT SHALL**
19 **PUBLISH A LIST OF ALL TAXPAYERS IN THE PRIOR TAXABLE YEAR THAT HAVE**
20 **BEEN ISSUED A TAX CREDIT CERTIFICATE AND INCLUDE THE MAXIMUM AMOUNT**
21 **OF TAX CREDIT ALLOWED.**

22 **(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE**
23 **PROVISIONS OF THIS SECTION, INCLUDING THE CRITERIA AND PROCEDURES**
24 **FOR APPLICATION FOR, APPROVAL OF, AND MONITORING ELIGIBILITY FOR THE**
25 **TAX CREDIT AUTHORIZED UNDER THIS SECTION.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 July 1, 2014, and shall be applicable to all taxable years beginning after December 31,
28 2013.