

## Article - Tax - General

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§10-736.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Department” means the Department of Housing and Community Development.
- (3) “Donation” means an irrevocable gift worth \$500 or more of:
- (i) cash; or
  - (ii) publicly traded securities.
- (4) “Eligible community foundation” means an organization that:
- (i) is exempt from taxation under § 501(c)(3) of the Internal Revenue Code;
  - (ii) is commonly known as a community trust, fund, endowment, or foundation or by another similar name that conveys the concept of a capital or endowment fund to support charitable activities in the community or area that it serves;
  - (iii) satisfies the public support test of § 170(b)(1)(A)(vi) of the Internal Revenue Code and regulations adopted under that section; and
  - (iv) is in compliance with national standards for United States community foundations established by the Community Foundations National Standards Board within the Council on Foundations.
- (5) “Qualified permanent endowment fund” means a fund that:
- (i) is held in perpetuity by an eligible community foundation;
  - (ii) is used for the benefit of charitable causes in the State; and
  - (iii) has an annual spending rate of 5% or less calculated using a 12-quarter trailing average of the total amount of the fund.
- (b) (1) Subject to the limitations of this section, for the taxable year in which a taxpayer makes a donation to a qualified permanent endowment fund at an eligible community foundation, the taxpayer may claim a credit against the State income tax in the amount stated on the tax credit certificate issued under subsection (c) of this section.

(2) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, any unused credit may be carried forward and applied for succeeding taxable years until the earlier of:

- (i) the full amount of the credit is used; or
- (ii) the expiration of the fifth year after the taxable year for which the credit was allowed.

(c) (1) On application by a taxpayer, the Department shall issue a credit certificate in the amount of 25% of a proposed donation to a qualified permanent endowment fund at an eligible community foundation that meets the requirements of this section.

(2) The application shall contain:

- (i) the names of the taxpayer, the eligible community foundation, and the qualified permanent endowment fund to which the donation will be made;
- (ii) the taxable year in which the donation will be made;
- (iii) the amount of the donation; and
- (iv) any other information that the Department requires.

(3) For any taxable year, the maximum amount of tax credit stated in the tax credit certificate may not exceed \$50,000.

(4) The Department shall:

- (i) reserve for each taxable year at least 10% of the available credits for donations of \$30,000 or less; and
- (ii) approve all applications that qualify for a tax credit certificate under this subsection:
  - 1. on a first-come, first-served basis; and
  - 2. in a timely manner.

(5) (i) For each taxable year, the total amount of tax credit certificates certified by the Department under this section may not exceed \$250,000.

(ii) If the aggregate amount of tax credit certificates authorized under this section during a taxable year total less than the amount authorized under this paragraph, any excess amount may be authorized under tax credit certificates for the next taxable year.

(d) On or before January 31 of each taxable year, the Department shall report to

the State Department of Assessments and Taxation and the Comptroller the donations that the Department has approved for tax credit certificates under this section during the prior taxable year.

(e) The Department shall adopt regulations to carry out the provisions of this section, including the criteria and procedures for application for, approval of, and monitoring eligibility for the tax credit authorized under this section.

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