

DEPARTMENT OF TAXATION

2008 Fiscal Impact Statement

1. **Patron** Robert D. Hull

3. **Committee** Senate Finance

4. **Title** Income Tax; Neighborhood Assistance Act
Tax Credit

2. **Bill Number** HB 680

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would move the Neighborhood Assistance Act Tax Credit program from Title 63.2 [Welfare (Social Services)] to Title 58.1 (Taxation) and provide a cross-reference to the tax credit program in Title 63.2 (§ 63.2-2002). The Commissioner of the Department of Social Services ("DSS") would continue to be responsible for administering the tax credit program. This bill would also provide that, for both business firms and individuals, the credit amount would be forty percent of the value of the donation.

This bill would provide that the value of a motor vehicle donated by a business firm would be the value as determined for federal income tax purposes. In addition, an individual that makes a contribution to a Neighborhood Assistance Act Tax Credit program would be allowed to claim a tax credit for the donation even if the donation has been claimed as a deduction for federal income tax purposes.

This bill would allow a business firm that pledged a donation in writing on or before January 1, 2006, to a neighborhood organization to be eligible to receive a tax credit that is equal to 45 percent of the value of the donation. The donation must be made on or before January 1, 2013 in order to qualify.

The provisions of this act would become effective in due course. However, the effective date for the provision regarding the value of a motor vehicle donated by a business firm would be for such donations made on and after July 1, 2008.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7. **Budget amendment necessary:** No.

8. Fiscal implications:

Administrative Costs

TAX considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

Because the Neighborhood Assistance Act Tax Credit is capped, this bill would have no revenue impact.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Social Services

10. Technical amendment necessary: No.

11. Other comments:

Background

The Neighborhood Assistance Act grants a tax credit to business firms and individuals who contribute to approved neighborhood assistance organizations designed to benefit impoverished individuals. The credit can be applied against the income tax imposed on individuals, trusts, estates, and corporations; the bank franchise tax; and the gross receipts tax imposed on insurance and public service corporations.

Business firms are permitted a tax credit equal to 45% of the value of money, property, professional services, and contracting services donated and must make a minimum donation of \$889 to receive the minimum allowable credit of \$400. Donors may take a maximum of \$175,000 in tax credits in any tax year, which requires donations valued at \$388,889. Any credit not usable for the taxable year may be carried over for the next 5 taxable years.

Individuals are permitted a tax credit equal to 45% of qualified monetary donations of \$500 or more by cash or check. The maximum credit for such donations is \$50,000, which requires donations valued at \$111,111. The tax credit allowed for individuals may only be taken to the extent the individual has not claimed a deduction for such amount on his federal income tax return.

The total amount of credits the Department of Social Services is authorized to allocate to neighborhood assistance organizations is limited to \$8 million in a fiscal year. However, \$2.75 million of this amount must be allocated to education programs. If requests for credits by education programs are less than \$2.75 million, then any remaining amount can be allocated to other programs.

Some portions of the Neighborhood Assistance Act were modified in the budget for the 2006-2008 biennium. Effective July 1, 2007 the following changes were made: (i) increasing the annual cap for tax credits allowed under the program from \$8 million to \$12 million, (ii) allocating \$1 million of the cap increase for education programs and \$3 million for providing grants to private schools for students with disabilities, (iii) reducing the tax credit percentage for donations made by corporations and individuals from 45% to 40%, and (iv) eliminating the restriction placed upon individuals from claiming a tax credit for the donation if a charitable contribution deduction is also taken.

These modifications also appear in the proposed budget for the 2008-2010 biennium.

Federal Regulation

Federal regulations provide that when a qualified vehicle is donated to a qualified organization and the donor deducts more than \$500, the donor must use either the gross proceeds of the sale of the vehicle by the organization or the vehicle's fair market value on the date of the contribution, whichever is lower as the deduction amount.

This rule does not apply to donations of inventory, however. For donations from a business's inventory, the amount that may be claimed as a deduction is the lower of the inventory's fair market value on the day that it was contributed or the basis of the inventory.

Department of Social Services Regulation

Department of Social Services ("DSS") regulations on the Neighborhood Assistance Act ("NAA") Program typically follow IRS standards. One exception is the value of donated merchandise, for which the DSS regulation states "[t]he value of merchandise donated to be sold, auctioned or raffled is the lesser of the value determined for federal tax purposes using IRS regulations or the actual proceeds received by the approved organization." 22 VAC 40-41-40 C. Therefore, business firms donating inventory use the lower of fair market value or basis for federal and Virginia charitable contribution deductions. However, when the organization sells the donated inventory, the business must base its NAA credit on the proceeds received by the organization (unless the amount exceeds the business' basis or fair market value).

This regulation ensures that the organizations participating in the NAA program receive the maximum benefits possible from the credits allocated by DSS. Although there are exceptions, items auctioned by an organization generally do not sell for their full value. Based on informal surveys of Neighborhood Assistance Act Program projects, the average amount received is less than 50% of the value. In some cases, the credit amount is greater than the proceeds received by the organization.

Proposal

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Similar Legislation

Senate Bill 700 would allow individuals to be eligible for the Neighborhood Assistance Tax Credit for donations of marketable securities as well as monetary donations.

cc : Secretary of Finance

Date: 2/14/2008 TG
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