

# DEPARTMENT OF TAXATION

## 2015 Fiscal Impact Statement

1. **Patron** James A. Leftwich

3. **Committee** House Finance

4. **Title** Tax Credit for Donations to Nonprofits  
Preserving Battlefields

2. **Bill Number** HB 1326

**House of Origin:**

           **Introduced**

  X   **Substitute**

           **Engrossed**

**Second House:**

           **In Committee**

           **Substitute**

           **Enrolled**

### 5. **Summary/Purpose:**

The Department of Taxation ("the Department") understands that the Patron will offer a substitute for this bill. This fiscal impact statement is drafted based on the substitute version.

This bill would allow an individual and corporate income tax credit equal to 35 percent of the value of a monetary or marketable securities donation made by a taxpayer to certain charitable organizations located in Virginia that are organized to acquire or preserve certain historic battlefields in Virginia, including any historic artifacts related to such battlefield.

The total amount of credits that could be issued for each fiscal year would be limited to \$1.5 million. No taxpayer would be permitted to claim credits in excess of \$15,000 or his or her Virginia income tax liability for the taxable year, whichever is less.

This bill would be effective for taxable years beginning on and after January 1, 2015, but before January 1, 2020.

6. **Budget amendment necessary:** No.

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

### 8. **Fiscal implications:**

#### Administrative Costs

The Department of Taxation ("the Department") has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not “routine.” Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

#### Revenue Impact

This bill would have an unknown negative General Fund revenue impact, beginning in Fiscal Year 2016. However, the reduction in General Fund revenues could not exceed the \$1.5 million credit cap in any fiscal year.

#### **9. Specific agency or political subdivisions affected:**

Department of Taxation

#### **10. Technical amendment necessary: No.**

#### **11. Other comments:**

##### Federal Charitable Contribution Deduction

Under federal law, a taxpayer is allowed a deduction for a charitable contribution to or for the use of certain qualified organizations. “Charitable contribution” means a contribution or gift to or for the use of:

- A state, possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes;
- Certain corporations and trusts, or community chests, funds or foundations;
- Certain posts or organizations of war veterans, or an auxiliary unit, society, trust, or foundation for any such post or organization;
- A domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is made by an individual and to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals; or
- Certain cemetery companies or corporations chartered solely for burial purposes.

A contribution of cash, services, and property, including land or an interest in land, may qualify as a charitable contribution.

For an individual, the amount of the charitable contribution deduction is generally limited to 50 percent of the contributing taxpayer’s contribution base for the taxable year if the contribution was made to:

- A church or a convention or association of churches;
- Certain educational organizations;

- Certain organizations that provide medical or hospital care or medical education or medical research;
- Certain organizations organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university;
- A governmental unit;
- An organization that normally receives a substantial part of its support from a governmental unit or from direct or indirect contributions from the general public; or
- Certain private foundations.

If an individual's contribution was to any other organization, the amount of the charitable contribution deduction is generally limited to 30 percent of his or her contribution base for the taxable year. "Contribution base" includes a taxpayer's adjusted gross income computed without regard to any net operating loss carryback to the taxable year.

A corporation's charitable contribution deduction is generally limited to 10 percent of its taxable income for the taxable year.

#### Federal Historic Preservation Tax Credit

Under federal law, an investment tax credit is allowed to taxpayers for the rehabilitation of historic income-producing properties that are deemed to be certified historic structures. "Certified historic structure" includes any building, and its structural components, which is:

- Listed in the National Register; or
- Located in a registered historic district and is certified by the Secretary of the Interior as being of historic significance to the district.

The credit is equal to 20 percent of the cost of rehabilitating or preserving commercial, agricultural, industrial, or rental residential buildings that are deemed historic structures.

#### Virginia Historic Rehabilitation Tax Credit

The Historic Rehabilitation Tax Credit is allowed to any individual, trust or estate, or corporation that incurs eligible expenses in the rehabilitation of a certified historic structure. The amount of the credit is equal to 25 percent of a taxpayer's eligible rehabilitation expenses.

To qualify for the credit, the cost of the rehabilitation must be equal to at least 50 percent (or 25 percent if the building is owner occupied) of the assessed value of the building for local real estate tax purposes prior to the rehabilitation. The rehabilitation work must be certified by the Department of Historic Resources and be consistent with the Secretary of the Interior's Standards for Rehabilitation.

#### Virginia Land Preservation Tax Credit

Virginia allows the Land Preservation Tax Credit to taxpayers that convey land or an interest in land located in Virginia for the purpose of agricultural and forestal use, open

space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed, and/or historic preservation to a public or private conservation agency eligible to hold such land and interests therein for conservation or preservation purposes. The amount of the credit is equal to 40 percent of the fair market value of the conveyed land or interest in land.

### Proposed Legislation

This bill would allow an individual and corporate income tax credit equal to 35 percent of the value of a monetary or marketable securities donation made by a taxpayer to an organization located in the Commonwealth that is:

- A corporation, trust, or community chest, fund or foundation, donations to which may qualify as charitable contributions for federal income tax purposes, that normally receives a substantial portion of its support from a state, possession of the United States, or any political subdivision of any of the foregoing, the United States, the District of Columbia, or from direct or indirect contributions from the general public;
- A charitable organization that is exempt from taxation pursuant to Internal Revenue Code § 501(c)(3); and
- Organized to acquire or preserve certain historic battlefields in the Commonwealth, including any historic artifacts related to such battlefield.

A “battlefield” would include land identified as such pursuant to the:

- “Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States” prepared by the American Battlefield Protection Program of the National Park Service; or
- “Report on the Nation’s Civil War Battlefields” by the Civil War Sites Advisory Commission established by the United States Congress.

The total amount of credits that could be issued for each fiscal year would be limited to \$1.5 million. No taxpayer would be permitted to claim credits in excess of \$15,000 or his or her Virginia income tax liability for the taxable year, whichever is less. Any credit not usable for the taxable year for which the credit was issued would be allowed to be carried over to the extent useable for the next five taxable years or until the total amount of the credit has been taken, whichever occurs sooner.

The Department would be required to administer the credit, and issue credits to taxpayers. Taxpayers would be required to apply to the Department for an allocation of credits. Upon approving a taxpayer’s credit application, the Department would be required to issue a certificate to the taxpayer that shows the amount of credits issued and the taxable year for which the credit was issued.

The Department would be required to develop and publish guidelines, exempt from the provisions of the Administrative Process Act, regarding the credit. Such guidelines would be required to include eligibility guidelines and procedural guidelines for applying the credit.

The amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company would be required to be allocated to the individual partners, shareholders, or members in proportion to their ownership or interest in such business entities.

This bill would be effective for taxable years beginning on and after January 1, 2015, but before January 1, 2020.

cc : Secretary of Finance

Date: 1/22/2015 MTH  
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