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SENATE BILL NO. 518

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend and reenact §§ 58.1-439.21 and 58.1-439.24 of the Code of Virginia, relating to neighborhood assistance tax credits; value of credit.*

Patron—Mason

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-439.21 and 58.1-439.24 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-439.21. Tax credit; amount; limitation; carry over.

A. The Superintendent of Public Instruction and the Commissioner of Social Services shall certify to the Department of Taxation, or in the case of business firms subject to a tax under Article 1 (§ 58.1-2500 et seq.) of Chapter 25 or Article 2 (§ 58.1-2620 et seq.) of Chapter 26, to the State Corporation Commission, the applicability of the tax credit provided herein for a business firm.

B. *A For taxable years beginning on and after January 1, 2012, but before January 1, 2019, a business firm shall be eligible for a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26, in an amount equal to 65 percent of the value of the money, property, professional services, and contracting services donated by the business firm during its taxable year to neighborhood organizations for programs approved pursuant to § 58.1-439.20. Notwithstanding any other law and for purposes of this article, the value of a motor vehicle donated by a business firm shall, in all cases, be such value as determined for federal income tax purposes using the laws and regulations of the United States relating to federal income taxes. No tax credit shall be granted for any donation made in the taxable year with a value of less than \$616.*

The tax credit for a qualified donation by a business firm shall equal (i) 60 percent of the value of qualified donations made on and after January 1, 2019, but before January 1, 2020; (ii) 55 percent of the value of qualified donations made on and after January 1, 2020, but before January 1, 2021; and (iii) 50 percent of the value of qualified donations made on and after January 1, 2021.

A business firm shall be eligible for a tax credit under this section only to the extent that sufficient tax credits allocated to the neighborhood organization for an approved project are available. Notwithstanding ~~that this section establishes a tax credit of 65 percent of the value of the qualified donation the tax credit percentage in effect for the taxable year,~~ a business firm may by written agreement accept a lesser tax credit percentage from a neighborhood organization for any otherwise qualified donation it has made. No tax credit shall be granted to any business firm for donations to a neighborhood organization providing job training or education for individuals employed by the business firm. Any tax credit not usable for the taxable year the donation was made may be carried over to the extent usable for the next five succeeding taxable years or until the full credit has been utilized, whichever is sooner. Credits granted to a partnership, electing small business (Subchapter S) corporation, or limited liability company shall be allocated to their individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

C. A tax credit shall be issued by the Superintendent of Public Instruction or the Commissioner of Social Services to a business firm upon receipt of a certification made by a neighborhood organization to whom tax credits were allocated for an approved program pursuant to § 58.1-439.20. The certification shall identify the type and value of the donation received, the business firm making the donation, and the tax credit percentage to be used in determining the amount of the tax credit. The certification shall also include any written agreement under which a business firm accepts a tax credit ~~of less than 65 percent~~ for a donation *at a tax credit percentage that is less than the tax credit percentage in effect for the taxable year.*

§ 58.1-439.24. Donations by individuals.

A. For purposes of this section, the term "individual" means the same as that term is defined in § 58.1-302, but excluding any individual included in the definition of a "business firm" as such term is defined in § 58.1-439.18.

~~A. B.~~ Notwithstanding any provision of this article limiting eligibility for tax credits, an individual making a monetary donation or a donation of marketable securities to a neighborhood organization

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59 approved under this article shall be eligible for a credit against taxes imposed by § 58.1-320 as provided
60 in this section.

61 ~~B.~~ C. Notwithstanding any provision of this article specifying the amount of a tax credit, a tax credit
62 issued to an individual making a monetary donation or a donation of marketable securities to an
63 approved project shall be equal to 65 percent of the value of such donation *for taxable years beginning*
64 *on and after January 1, 2012, but before January 1, 2019*; however, tax credits (i) shall not be issued
65 for any donation made in the taxable year with a value of less than \$500 and (ii) shall be issued only
66 for the first \$125,000 in value of donations made by the individual during the taxable year. The
67 maximum aggregate donations of \$125,000 for the taxable year for which tax credits may be issued and
68 the minimum required donation of \$500 shall apply on an individual basis.

69 *The tax credit for a qualified donation by an individual shall equal (i) 60 percent of the value of*
70 *qualified donations made on and after January 1, 2019, but before January 1, 2020; (ii) 55 percent of*
71 *the value of qualified donations made on and after January 1, 2020, but before January 1, 2021; and*
72 *(iii) 50 percent of the value of qualified donations made on and after January 1, 2021.*

73 ~~C.~~ D. An individual shall be eligible for a tax credit under this section only to the extent that
74 sufficient tax credits allocated to the neighborhood organization approved under this article are available.
75 Notwithstanding ~~that this section establishes a tax credit of 65 percent of the value of the qualified~~
76 ~~donation the tax credit percentage in effect for the taxable year~~, an individual may by written agreement
77 accept a lesser tax credit percentage from a neighborhood organization for any otherwise qualified
78 donation he has made.

79 ~~D.~~ E. The amount of credit allowed pursuant to this section, if such credit has been issued by the
80 Superintendent of Public Instruction or the Commissioner of Social Services, shall not exceed the tax
81 imposed pursuant to § 58.1-320 for such taxable year. Any credit not usable for the taxable year may be
82 carried over for credit against the individual's income taxes until the earlier of (i) the full amount of the
83 credit is used or (ii) the expiration of the fifth taxable year after the taxable year in which the tax credit
84 has been issued to such individual. If an individual that is subject to the tax limitation imposed pursuant
85 to this subsection is allowed another credit pursuant to any other section of the Code of Virginia, or has
86 a credit carryover from a preceding taxable year, such individual shall be considered to have first
87 utilized any credit allowed that does not have a carryover provision, and then any credit that is carried
88 forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this
89 section.

90 ~~E.~~ F. A tax credit shall be issued by the Superintendent of Public Instruction or the Commissioner of
91 Social Services to an individual only upon receipt of a certification made by a neighborhood
92 organization to whom tax credits were allocated for an approved program pursuant to § 58.1-439.20.

93 The certification shall identify the type and value of the donation received, the individual making the
94 donation, and the tax credit percentage to be used in determining the amount of the tax credit. The
95 certification shall also include any written agreement under which an individual accepts a tax credit of
96 ~~less than 65 percent~~ for a donation *at a tax credit percentage that is less than the tax credit percentage*
97 *in effect for the taxable year.*