

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 611

An Act to amend and reenact §§ 36-55.63, 58.1-336, 58.1-435, 58.1-609.7 and 63.1-323 of the Code of Virginia, relating to income tax credits and sales and use tax exemptions.

[S 282]

Approved April 10, 1994

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-55.63, 58.1-336, 58.1-435, 58.1-609.7 and 63.1-323 of the Code of Virginia are amended and reenacted as follows:

§ 36-55.63. Low-income housing credit.

A. Any person shall be entitled to a credit against the income taxes imposed pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 for the first five taxable years in which a federal low-income housing credit is allowed for low-income housing units placed in service on or after January 1, ~~1994~~ 1996, provided such person qualified for and claimed the low-income housing credit on the federal income tax return filed for the taxable year, and meets the qualifications established by the Board of Housing and Community Development for claiming such credit on the Virginia income tax return.

B. The Board of Housing and Community Development shall issue regulations establishing the amount of the low-income housing credit allowable and the terms and conditions for qualifying for such credit. The Virginia low-income housing credit amount shall be a percentage of the federal low-income tax credit claimed for the taxable year; however, the specific percentage shall be determined by the Board. If the low-income housing credit claimed on the person's federal tax return was calculated on a period of less than twelve months, the Board may nevertheless calculate the Virginia low-income housing credit amount on the basis of a twelve-month period for the taxable year.

C. The Department of Housing and Community Development shall administer the approval of low-income housing credits. The total maximum amount of low-income housing credits which may be approved by the Board in any calendar year shall be \$3.5 million. When the Department authorizes a person to claim a low-income housing credit amount on the Virginia income tax return, the amount allocated for the initial calendar year shall be applied to reduce the total maximum credit limit, only for the first calendar year in which the credit amount is authorized by the Department.

D. If any person qualifies in a taxable year for the Virginia low-income housing credit, and in a subsequent taxable year is subject to the credit recapture provisions for federal income tax purposes, such person shall similarly be subject to a credit recapture amount on the Virginia income tax return. The Board shall promulgate regulations establishing the terms and conditions for computing the credit recapture amount for the Virginia income tax return.

E. To claim the credit authorized under this section, the taxpayer shall apply to the Department of Housing and Community Development to determine the credit amount allowable for the taxable year. The Department shall certify to the Department of Taxation that such person qualified for the Virginia low-income housing credit amount claimed on the tax return for the taxable year. The taxpayer shall attach the certification form to the Virginia income tax return filed with the Department of Taxation. The Department of Housing and Community Development shall also provide the Department of Taxation with credit recapture amounts and any other information it may require relating to the credit claimed by the taxpayer.

§ 58.1-336. Low-income housing credit.

A. Any person shall be entitled to a credit against the tax imposed by § 58.1-320 in the amount certified to the Department pursuant to § 36-55.63 for the first five taxable years in which a federal low-income housing credit is allowed for low-income housing units placed in service on or after January 1, ~~1994~~ 1996. Credits granted to a partnership or S corporation shall be passed through to the partners or shareholders, respectively.

B. Any person claiming a credit pursuant to subsection A shall be subject to recapture of the credit pursuant to § 36-55.63. Any credit recapture shall be assessed and collected in the same manner as a tax attributable to a change in federal taxable income within the meaning of § 58.1-311.

§ 58.1-435. Low-income housing credit.

A. Any person shall be entitled to a credit against the tax imposed by § 58.1-400 in the amount certified to the Department pursuant to § 36-55.63 for the first five taxable years in which a federal low-income housing credit is allowed for low-income housing units placed in service on or after January 1, ~~1994~~ 1996. Credits granted to a partnership or S corporation shall be passed through to the partners or shareholders, respectively.

B. Any person claiming a credit pursuant to subsection A shall be subject to recapture of the credit pursuant to § 36-55.63. Any credit recapture shall be assessed and collected in the same manner as a tax attributable to a change in federal taxable income within the meaning of § 58.1-311.

§ 58.1-609.7. Medical-related exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, and veterinarians; and controlled drugs purchased for use by a licensed physician in his professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership or professional corporation, or any other type of corporation in which the shareholders and operators are all licensed physicians engaged in the practice of medicine, but excluding hospitals, nursing homes, clinics, and similar corporations not otherwise exempt under this section. Any veterinarian dispensing or selling medicines or drugs on prescription shall be deemed to be the user or consumer of all such medicines and drugs.

2. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances, catheters, urinary accessories, other durable medical equipment and devices, and related parts and supplies specifically designed for those products; and insulin and insulin syringes, and equipment, devices or chemical reagents which may be used by a diabetic to test or monitor blood or urine, when such items or parts are purchased by or on behalf of an individual for use by such individual. Durable medical equipment is equipment which (i) can withstand repeated use, (ii) is primarily and customarily used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or injury, and (iv) is appropriate for use in the home.

3. Drugs and supplies used in hemodialysis and peritoneal dialysis.

4. Tangible personal property for use or consumption by a nonprofit hospital or a nonprofit licensed nursing home.

5. Tangible personal property for use or consumption by community health centers exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and established for the purpose of providing health care services for areas of the Commonwealth containing a medically underserved population as defined by 42 U.S.C. § 254 c (b) (3).

6. Special equipment installed on a motor vehicle when purchased by a handicapped person to enable such person to operate the motor vehicle.

7. Tangible nonmedical personal property purchased by a nonprofit organization organized exclusively for the purpose of providing housing and ancillary assistance for children suffering from leukemia or oncological diseases, for other ill children, and for the families of such children during periods of medical treatment of such children at any hospital in the Commonwealth.

8. Tangible personal property purchased by a voluntary health organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively for the purpose of providing direct therapeutic and rehabilitative services, such as speech therapy, physical therapy, and camping and recreational activities, to the children and adults of this Commonwealth regardless of the nature of their disease or socio-economic position.

9. Special typewriters and computers and related parts and supplies specifically designed for those products used by handicapped persons to communicate when such equipment is prescribed by a licensed physician.

10. Tangible personal property purchased for use or consumption by health maintenance organizations licensed under Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2 which are exempt from taxation under § 501 (c) (3) of the Internal Revenue Code.

11. Tangible personal property for use or consumption by a nonprofit, nonstock corporation which is exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized under the laws of the Commonwealth exclusively for the purpose of conducting a clinic furnishing free health care services by licensed physicians and dentists.

12. Tangible personal property purchased for use or consumption by any nonprofit hospital cooperative or nonprofit hospital corporation organized and operated for the sole purpose of providing services exclusively to nonprofit hospitals. This exemption shall not apply to any nonprofit hospital, cooperative or nonprofit hospital corporation providing services of any kind or to any extent to other than nonprofit hospitals.

13. From July 1, 1989, through June 30, 1994, tangible personal property purchased for use or consumption by a nonprofit high blood pressure center which is used exclusively to provide medical assistance to indigent persons diagnosed with hypertension.

14. From July 1, 1989, through June 30, 1994, tangible personal property purchased for use or consumption by a tissue bank exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and established for purposes of harvesting, preserving, processing and distributing bones, skin and other human tissue to licensed physicians for clinical use.

15. Beginning July 1, 1994 1996, any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.

§ 63.1-323. Tax credit authorized; proposals; regulations; amount for programs.

Any business firm that engages in the activities of providing neighborhood assistance, job training or education for individuals not employed by the business firm, community services or crime prevention services in an impoverished area or for impoverished people shall receive a tax credit as provided in § 63.1-324, if the Commissioner of Social Services or his designee approves the proposal of such business firm or of a neighborhood organization. The proposal shall set forth the program to be conducted, the impoverished area or impoverished people selected, the estimated amount to be invested in the program and the plans for implementing the program. A copy of the proposal shall be submitted by the Commissioner of Social Services or his designee to all planning district commissions within whose boundaries the proposal will operate. The planning district commissions shall thereafter notify their respective local units of government of the contents of the proposal. Such commission or the governing body of each governmental subdivision may thereafter comment in writing on the proposal to the Commissioner or his designee. If, in the opinion of the Commissioner or his designee, a business firm's investment can more consistently meet with the purposes of this chapter if made through contributions to a nonprofit neighborhood organization, a tax credit may similarly be allowed as provided in § 63.1-324. The Commissioner of Social Services or his designee is hereby authorized to promulgate regulations for the approval or disapproval of such proposals by business firms or neighborhood organizations. Such regulations shall contain a requirement that an annual audit be provided by the business firm or neighborhood organization as a prerequisite for approval. *Through June 30, 1996, the total amount of tax credit granted for programs approved under this chapter for each fiscal year shall not exceed \$5,250,000. From July 1, 1996, through June 30, 1998, the total amount of tax credit granted for programs approved under this chapter for each fiscal year shall not exceed eight million dollars. Tax credits shall not be authorized after fiscal year 1995-1996 1998.*

2. That all funds generated by the enactment of this act, except for the one-half percent sales and use tax deposited in the Transportation Trust Fund and the one percent sales and use tax returned to localities by point of sale, shall be deposited in the general fund and used for reducing class sizes in grades kindergarten through 3, based on the concentration of student poverty at the school level; providing programs for unserved at-risk four-year-olds; and providing expanded access to educational technology, as set forth in the general appropriation act.