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HOUSE BILL NO. 1701

Offered January 14, 2015

Prefiled January 12, 2015

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.*

Patron—Wilt

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 the State Department 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 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 of less than \$400 shall be granted for any donation made in the taxable year with a value of less than \$625.

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, 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 the State Department 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 and, 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. 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.

§ 58.1-439.24. Donations by individuals.

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

B. Notwithstanding any provision of this article specifying the amount of a tax credit, a tax credit issued to an individual making a monetary donation or a donation of marketable securities to an

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59 approved project shall be equal to 65 percent of the value of such donation; however, tax credits (i)
60 shall not be issued for any donation made in the taxable year with a value of less than \$500 and (ii)
61 shall be issued only for the first \$125,000 in value of donations made by the individual during the
62 taxable year. The maximum aggregate donations of \$125,000 for the taxable year for which tax credits
63 may be issued and the minimum required donation of \$500 shall apply on an individual basis.

64 C. An individual shall be eligible for a tax credit under this section only to the extent that sufficient
65 tax credits allocated to the neighborhood organization approved under this article are available.
66 *Notwithstanding that this section establishes a tax credit of 65 percent of the value of the qualified*
67 *donation, an individual may by written agreement accept a lesser tax credit percentage from a*
68 *neighborhood organization for any otherwise qualified donation he has made.*

69 D. The amount of credit allowed pursuant to this section, if such credit has been issued by the
70 Superintendent of Public Instruction or the Commissioner of the State Department of Social Services,
71 shall not exceed the tax imposed pursuant to § 58.1-320 for such taxable year. Any credit not usable for
72 the taxable year may be carried over for credit against the individual's income taxes until the earlier of
73 (i) the full amount of the credit is used or (ii) the expiration of the fifth taxable year after the taxable
74 year in which the tax credit has been issued to such individual. If an individual that is subject to the tax
75 limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of
76 the Code of Virginia, or has a credit carryover from a preceding taxable year, such individual shall be
77 considered to have first utilized any credit allowed that does not have a carryover provision, and then
78 any credit that is carried forward from a preceding taxable year, prior to the utilization of any credit
79 allowed pursuant to this section.

80 E. A tax credit shall be issued by the Superintendent of Public Instruction or the Commissioner of
81 the State Department of Social Services to an individual only upon receipt of a certification made by a
82 neighborhood organization to whom tax credits were allocated for an approved program pursuant to
83 § 58.1-439.20.

84 The certification shall identify the type and value of the donation received ~~and~~, the individual making
85 the donation, *and the tax credit percentage to be used in determining the amount of the tax credit. The*
86 *certification shall also include any written agreement under which an individual accepts a tax credit of*
87 *less than 65 percent for a donation.*

88 **2. That the provisions of this act shall become effective for taxable years beginning on or after**
89 **January 1, 2015.**