

DEPARTMENT OF TAXATION

2017 Fiscal Impact Statement

1. **Patron** Richard L. Saslaw

3. **Committee** Senate Finance

4. **Title** Elimination of State-Level Charitable
Contribution Deductions When Taxpayers
Claim Certain Virginia Tax Credits

2. **Bill Number** SB 1109

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would prohibit taxpayers from claiming both a state tax deduction and either the Neighborhood Assistance Act Tax Credit or the Education Improvement Scholarships Tax Credit for the same charitable donation. Nothing in this bill would prohibit taxpayers from claiming a federal tax deduction for such donation.

This bill would be effective for taxable years beginning on or after January 1, 2017.

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

7. **No Fiscal Impact.** (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department"), the Department of Education, and the Department of Social Services consider implementation of this bill as routine, and do not require additional funding.

Revenue Impact

This bill would have an annual positive General Fund revenue impact of \$2.04 million in Fiscal Year 2018 and each fiscal year thereafter. No budget amendment is needed because the General Fund revenue impact is assumed in the Introduced Executive Budget. However, if this provision is not enacted, the budget would need to be adjusted to reduce the revenue estimate by \$2.04 million in Fiscal Year 2018.

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

Department of Education
Department of Social Services
Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Income Tax Preferences for Charitable Contributions

An individual taxpayer who elects to itemize his deductions for federal income tax purposes, in lieu of claiming the standard deduction, is permitted to deduct his charitable contributions. Similarly, all corporate taxpayers are allowed to deduct their charitable contributions. A “charitable contribution” means a contribution or gift to or for the use of certain charitable organizations specified under federal tax law. In any given taxable year, an individual taxpayer’s deduction may not exceed 50 percent of his federal adjusted gross income. This percentage limitation may drop to 30 percent or 20 percent of federal adjusted gross income, depending on the type of property contributed and the type of donee. A corporate taxpayer generally can deduct charitable contributions up to 10 percent of its federal taxable income. Amounts that exceed these percentage limitations can be carried forward for five years. The deduction allowed for charitable contributions of property is usually the property’s fair market value, but the amount is reduced for charitable contributions of certain types of property.

Virginia Tax Preferences for Charitable Contributions

Because federal taxable income is the starting point for computing a corporation’s Virginia tax liability, the federal deduction for charitable contributions is taken into account for Virginia income tax purposes. Similarly, any federal itemized deductions claimed for charitable contributions are generally also deductible in computing an individual’s Virginia tax liability.

In addition, the Virginia Neighborhood Assistance Act Tax Credit program authorizes a tax credit equal to 65 percent of the value of a donation made by a business firm or an individual that donates to neighborhood organizations for approved programs that benefit impoverished people. The Department of Social Services and the Department of Education are responsible for approving programs proposed by neighborhood organizations and allocating Neighborhood Assistance Act Tax Credits to neighborhood organizations with approved programs. A business firm or individual that makes a donation to a neighborhood organization for an approved program is then eligible to receive an income tax credit from that neighborhood organization. For a business firm or individual who donates professional services, the donation can be money, property, professional services, or contracting services. For an individual who does not donate professional services, the donation can be money or marketable securities. The total amount of credits that may be allocated in a fiscal year is capped. Currently, the entire program is capped at \$17 million, with \$9 million for education proposals (administered by Department of Education) and \$8 million for all other proposals (administered by Department of Social Services).

The Education Improvement Scholarships Tax Credit program authorizes a tax credit equal to 65 percent of the value of a donation made to a qualifying scholarship foundation. The Department of Education is responsible for administering this program and awarding tax credits to taxpayers on a first-come, first-served basis. A person seeking to make a

monetary or marketable securities donation to a scholarship foundation or a scholarship foundation on behalf of such person is required to request preauthorization for a specified credit amount from the Superintendent of Public Instruction. The total amount of tax credits available in any given fiscal year is capped at \$25 million. The donation can be money or marketable securities.

Nothing under existing law prohibits a taxpayer from benefitting from both a state tax deduction and a tax credit for the same charitable contribution.

Proposed Legislation

This bill would prohibit taxpayers from claiming both a state tax deduction and either the Neighborhood Assistance Act Tax Credit or the Education Improvement Scholarships Tax Credit for the same charitable donation. Nothing in this bill would prohibit taxpayers from claiming a federal tax deduction for such donation.

This bill would be effective for taxable years beginning on or after January 1, 2017.

Similar Bills

House Bill 1707 is identical to this bill.

House Bill 1433, House Bill 1838, Senate Bill 1137, Senate Bill 1165, Senate Bill 1167, and Senate Bill 1168 would make changes to the Neighborhood Assistance Act Tax Credit.

House Bill 1756, House Bill 1962, House Bill 1963, House Bill 1966, House Bill 1167, House Bill 1426, House Bill 1427, and House Bill 1428 would make changes to the Education Improvement Scholarships Tax Credit.

Similar Tax Preferences for Charitable Contributions in Other States

Fifteen states have programs similar to the Virginia Neighborhood Assistance Act Tax Credit program:

State	Credit Percentage	Can a taxpayer claim both the credit and a state tax deduction?	
		Individuals	Corporations
Connecticut	60% (100% for certain energy conservation projects)	N/A**	Yes
Delaware	50%	No	No
Florida	50%	N/A***	Yes
Indiana	50%	No	No
Iowa (Endow)*	25%	No	No
Kentucky (Endow)*	20%	Yes	Yes
Kansas	50% (70% if the approved community service organization is located in a rural community)	No	No
Louisiana	50%	Yes	Yes
Maryland (NAP)	50%	N/A**	Yes
Maryland (Endow)*	25%	N/A	No
Missouri	50% (70% for programs within the scope of special program priorities and 70% for certain generally rural communities)	Yes	Yes
Nebraska	40%	Yes	Yes
New Jersey	100%	No	Yes
Pennsylvania	25%-80% (depending on project)	No	Yes
Virginia	65%	Yes	Yes
West Virginia	50%	No	Yes

*Iowa, Kentucky, and Maryland have “endow tax credits” that operate differently than traditional NAP programs in that they provide tax credits for donations to an endowment fund administered by a qualified foundation that uses the earnings of the fund to address community needs.

**The Connecticut Neighborhood Assistance Act Tax Credit and the Maryland Neighborhood and Community Assistance Program Tax Credit may not be applied against state personal income tax.

***Florida does not have a personal income tax.

Sixteen states have programs similar to the Virginia Education Improvement Scholarships Tax Credit program:

State	Credit Percentage	Can a taxpayer claim both the credit and state tax deduction?	
		Individuals	Corporations
Alabama	100%	No	No
Arizona	100%	No	No
Florida	100%	N/A ^{***}	Yes
Georgia	100%	No	No
Indiana	50%	No	No
Iowa	65%	No	No
Kansas	70%	N/A ^{****}	Yes
Louisiana	95%-100%	Yes	Yes
Montana	100%	No	No
Nevada	100%	N/A ^{***}	
New Hampshire	85%	N/A ^{***}	Yes
Oklahoma	50%	Yes	Yes
Pennsylvania (Opportunity Scholarship Tax Credit)*	75% (90% if a business agrees to provide same amount for two consecutive tax years)	No	Yes
Pennsylvania (Educational Improvement Tax Credit)	75% (90% if a business agrees to provide same amount for two consecutive tax years; 90%-100% for contributions to Pre-K Scholarship Organizations)	No	Yes
Rhode Island	75% (90% for a 2-year donation commitment)	No	Yes
South Carolina**	100%	No	No
South Dakota	80%	N/A ^{***}	
Virginia	65%	Yes	Yes

*The Pennsylvania Opportunity Scholarship Tax Credit helps provide funding for tuition assistance in the form of scholarships to eligible students residing within the boundaries of a low-achieving school to attend another public school outside of their district or nonpublic school.

**The South Carolina Educational Credit for Exceptional Needs Children is a scholarship program for students with special needs.

***Florida and New Hampshire do not impose a personal income tax. Nevada and South Dakota do not impose either a personal or corporate income tax. Their tax credit programs apply against other taxes imposed by those states.

****The Kansas Credit for Contributions to Scholarship-Granting Organizations may not be applied against Kansas personal income tax.

cc: Secretary of Finance
Date: 1/15/2017 JJS
SB1109F161