

Chapter 511

(Senate Bill 486)

AN ACT concerning

Income Tax Credit – Endow Maryland

FOR the purpose of allowing a credit against the State income tax for a certain amount of donations to certain qualified permanent endowment funds at certain community foundations; requiring certain taxpayers to add a certain deduction back to federal adjusted gross income to determine Maryland adjusted gross income; providing for the carry forward of the credit; requiring the Department of Housing and Community Development, on application of a taxpayer, to issue a tax credit certificate under certain circumstances; requiring the application to contain certain information; providing for the maximum amount of a tax credit certificate that may be issued; requiring the Department to reserve a certain amount of credits for donations under a certain amount; requiring the Department to approve applications on a first-come, first-served basis and ~~within a certain number of days of receipt of the application~~ in a timely manner; providing that the total number of applications certified by the Department may not exceed a certain amount for each taxable year; providing that excess tax credits not certified during a taxable year may be carried over and certified during the next taxable year; requiring the Department to report certain information to the State Department of Assessments and Taxation and the Comptroller on or before a certain date each year; requiring the Department to ~~publish a certain list and~~ adopt certain regulations; defining certain terms; providing for the application of this Act; and generally relating to a State income tax credit for certain donations to certain endowment funds.

BY repealing and reenacting, without amendments,
 Article – Tax – General
 Section 10–204(a) and 10–305(a)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2013 Supplement)

BY adding to
 Article – Tax – General
 Section 10–204(l) and 10–736
 Annotated Code of Maryland
 (2010 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
 Article – Tax – General
 Section 10–305(d)

Annotated Code of Maryland
(2010 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – General

10–204.

(a) To the extent excluded from federal adjusted gross income, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(L) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES ANY AMOUNT DEDUCTED AS A DONATION, AS DEFINED UNDER § 10–736 OF THIS TITLE, TO THE EXTENT THAT THE AMOUNT OF THE DONATION IS INCLUDED IN AN APPLICATION FOR A CREDIT THAT IS CERTIFIED UNDER § 10–736 OF THIS TITLE.

10–305.

(a) To the extent excluded from federal taxable income, the amounts under this section are added to the federal taxable income of a corporation to determine Maryland modified income.

(d) The addition under subsection (a) of this section includes the additions required for an individual under:

(1) § 10–204(b) of this title (Dividends and interest from another state or local obligation);

(2) § 10–204(c)(2) of this title (Federal tax–exempt income);

(3) § 10–204(e) of this title (Oil percentage depletion allowance);

(4) § 10–204(i) of this title (Deduction for qualified production activities income); [and]

(5) § 10–204(j) of this title (Deduction for costs for security clearance administrative expenses and construction and equipment costs incurred to construct or renovate a sensitive compartmented information facility); **AND**

(6) § 10–204(L) OF THIS TITLE (DEDUCTION FOR DONATIONS TO QUALIFIED PERMANENT ENDOWMENT FUNDS).

10-736.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

(3) "DONATION" MEANS AN IRREVOCABLE GIFT WORTH \$500 OR MORE OF:

(I) CASH ~~OR~~; OR

(II) PUBLICLY TRADED SECURITIES.

(4) "ELIGIBLE COMMUNITY FOUNDATION" MEANS AN ORGANIZATION THAT:

(I) IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE;

(II) IS COMMONLY KNOWN AS A COMMUNITY TRUST, FUND, ENDOWMENT, OR FOUNDATION OR BY ANOTHER SIMILAR NAME THAT CONVEYS THE CONCEPT OF A CAPITAL OR ENDOWMENT FUND TO SUPPORT CHARITABLE ACTIVITIES IN THE COMMUNITY OR AREA THAT IT SERVES;

(III) SATISFIES THE PUBLIC SUPPORT TEST OF § 170(B)(1)(A)(VI) OF THE INTERNAL REVENUE CODE AND REGULATIONS ADOPTED UNDER THAT SECTION; AND

(IV) IS IN COMPLIANCE WITH NATIONAL STANDARDS FOR UNITED STATES COMMUNITY FOUNDATIONS ESTABLISHED BY THE COMMUNITY FOUNDATIONS NATIONAL STANDARDS BOARD WITHIN THE COUNCIL ON FOUNDATIONS.

(5) "QUALIFIED PERMANENT ENDOWMENT FUND" MEANS A FUND THAT:

(I) IS HELD IN PERPETUITY BY AN ELIGIBLE COMMUNITY FOUNDATION;

(II) IS USED FOR THE BENEFIT OF CHARITABLE CAUSES IN THE STATE; AND

(III) HAS AN ANNUAL SPENDING RATE OF 5% OR LESS CALCULATED USING A 12-QUARTER TRAILING AVERAGE OF THE TOTAL AMOUNT OF THE FUND.

(B) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, FOR THE TAXABLE YEAR IN WHICH A TAXPAYER MAKES A DONATION TO A QUALIFIED PERMANENT ENDOWMENT FUND AT AN ELIGIBLE COMMUNITY FOUNDATION, THE TAXPAYER MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE ISSUED UNDER SUBSECTION (C) OF THIS SECTION.

(2) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, ANY UNUSED CREDIT MAY BE CARRIED FORWARD AND APPLIED FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

(I) THE FULL AMOUNT OF THE CREDIT IS USED; OR

(II) THE EXPIRATION OF THE FIFTH YEAR AFTER THE TAXABLE YEAR FOR WHICH THE CREDIT WAS ALLOWED.

(C) (1) ON APPLICATION BY A TAXPAYER, THE DEPARTMENT SHALL ISSUE A CREDIT CERTIFICATE IN THE AMOUNT OF 25% OF A PROPOSED DONATION TO A QUALIFIED PERMANENT ENDOWMENT FUND AT AN ELIGIBLE COMMUNITY FOUNDATION THAT MEETS THE REQUIREMENTS OF THIS SECTION.

(2) THE APPLICATION SHALL CONTAIN:

(I) THE NAMES OF THE TAXPAYER, THE ELIGIBLE COMMUNITY FOUNDATION, AND THE QUALIFIED PERMANENT ENDOWMENT FUND TO WHICH THE DONATION WILL BE MADE;

(II) THE TAXABLE YEAR IN WHICH THE DONATION WILL BE MADE;

(III) THE AMOUNT OF THE DONATION; AND

(IV) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

(3) FOR ANY TAXABLE YEAR, THE MAXIMUM AMOUNT OF TAX CREDIT STATED IN THE TAX CREDIT CERTIFICATE MAY NOT EXCEED \$50,000.

(4) THE DEPARTMENT SHALL:

(I) RESERVE FOR EACH TAXABLE YEAR AT LEAST 10% OF THE AVAILABLE CREDITS FOR DONATIONS OF \$30,000 OR LESS; AND

(II) APPROVE ALL APPLICATIONS THAT QUALIFY FOR A TAX CREDIT CERTIFICATE UNDER THIS SUBSECTION:

1. ON A FIRST-COME, FIRST-SERVED BASIS; AND

**2. ~~WITHIN 30 DAYS OF RECEIPT OF AN APPLICATION~~
IN A TIMELY MANNER.**

(5) (I) FOR EACH TAXABLE YEAR, THE TOTAL AMOUNT OF TAX CREDIT CERTIFICATES CERTIFIED BY THE DEPARTMENT UNDER THIS SECTION MAY NOT EXCEED ~~\$1,000,000~~ \$250,000.

(II) IF THE AGGREGATE AMOUNT OF TAX CREDIT CERTIFICATES AUTHORIZED UNDER THIS SECTION DURING A TAXABLE YEAR TOTAL LESS THAN THE AMOUNT AUTHORIZED UNDER THIS PARAGRAPH, ANY EXCESS AMOUNT MAY BE AUTHORIZED UNDER TAX CREDIT CERTIFICATES FOR THE NEXT TAXABLE YEAR.

~~**(D) ON JANUARY 1 OF EACH TAXABLE YEAR, THE DEPARTMENT SHALL PUBLISH A LIST OF ALL TAXPAYERS IN THE PRIOR TAXABLE YEAR THAT HAVE BEEN ISSUED A TAX CREDIT CERTIFICATE AND INCLUDE THE MAXIMUM AMOUNT OF TAX CREDIT ALLOWED.**~~

(D) ON OR BEFORE JANUARY 31 OF EACH TAXABLE YEAR, THE DEPARTMENT SHALL REPORT TO THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION AND THE COMPTROLLER THE DONATIONS THAT THE DEPARTMENT HAS APPROVED FOR TAX CREDIT CERTIFICATES UNDER THIS SECTION DURING THE PRIOR TAXABLE YEAR.

(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION, INCLUDING THE CRITERIA AND PROCEDURES FOR APPLICATION FOR, APPROVAL OF, AND MONITORING ELIGIBILITY FOR THE TAX CREDIT AUTHORIZED UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2014, and shall be applicable to all taxable years beginning after December 31, ~~2013~~ 2014.

Approved by the Governor, May 15, 2014.