WEST VIRGINIA CODE CHAPTER 11 ARTICLE 13FF

WV Legislature

§11-13FF-1. Definitions.

As used in this article:

(1) “Commissioner” means the Tax Commissioner of the State of West Virginia, or his or her delegate.

(2) “Division” means the Tax Division of the Department of Revenue.

(3) “Low-Income Worker” means a person living in a household with total income at or below 200 percent of the Federal Poverty Level.

(4) “Program Value” means the fair market value of the vehicle less an amount to be determined by the qualifying charitable organization based upon the suitability of the vehicle to its program.

(5) “Qualified Charitable Organization” means a nonprofit association which:

(A) Is recognized as exempt from federal taxation under §501(c)(3) of the United States Code;

(B) Is registered as a charitable organization pursuant to §29-19-1 et seq. of this code; and

(C) Operates a program that provides the following services:

(i) Providing low-income workers in the state with below-market, affordable financing to purchase vehicles through cooperating financial institutions; and

(ii) Providing financial counseling and other training and assistance to low-income workers to meet the terms of the loans used to purchase the vehicles through the program.

(6) “Vehicle” means a passenger motor vehicle that is suitable for daily commutes for employment purposes and is acceptable to the qualifying charitable organization as to its suitability for its program.

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§11-13FF-2. Amount of credit; limitation of credit.

(a) There is allowed to taxpayers who make donations of vehicles to qualified charitable organizations in the state a credit against taxes imposed by §11-21-1 et seq. and §11-24-1 et seq. of this code in an amount equal to 50 percent of the program value of the vehicle or $2,000, whichever is less.

(b) There is allowed to new or used motor vehicle dealers licensed pursuant to §17A-6-3 of this code that sell a vehicle at a reduced sales price to low-income workers through a program administered by a qualified charitable organization, a credit against taxes imposed by §11-21-1 *et seq.* and §11-24-1 *et seq.* of this code in an amount equal to no more than 50 percent of the difference between the program value of the vehicle and the reduced sales price, or $2,000, whichever is less.

(c) There shall be no credit allowed pursuant to this article for a new or used motor vehicle dealer unless the dealer certifies that the dealer has no knowledge or reason to believe the vehicle is subject to any unperformed safety recall or was junked or salvaged or should have been branded or reported as junked or salvaged.

(d) If any credit remains after application of the credit against tax for any taxable year under this article, the amount thereof is forfeited. No carryback to a prior taxable year is allowed for the amount of any unused portion of this credit.

(e) No more than $300,000 of tax credits may be allocated to the department in any fiscal year. The division shall allocate the tax credits in the order the donation forms are received.

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§11-13FF-3. Determination of value of credit.

(a) At the time of the donation or sale of the vehicle, the taxpayer shall provide to the qualified charitable organization an estimate of the fair market value of the vehicle.

(b) Upon accepting the vehicle to be used in their program, the qualified charitable organization shall provide the taxpayer a signed and dated form prescribed by the division containing at a minimum:

(1) The vehicle identification number of the vehicle, its make and model;

(2) The name, address and taxpayer identification number of the taxpayer;

(3) The name and address of the qualifying charitable organization;

(4) The qualifying charitable organization’s determination of the program value of the vehicle, based upon the taxpayer’s estimate of the fair market value of the vehicle and the suitability of the vehicle for the qualifying charitable organization’s programs; and

(5) The maximum amount of tax credit authorized for the donation or sale of the vehicle; as calculated by the qualifying charitable organization: Provided, That the actual amount of tax credit authorized shall be determined by the tax division as provided in section two of this article.

(c) To claim the tax credit, the taxpayer shall send the form provided by the qualified charitable organization to the division for certification.

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§11-13FF-4. Applicability to “as is” vehicles.

Notwithstanding any other provision of this code to the contrary, the fair market value of the vehicle and not the sales price shall be used to determine the applicability of §46A-6-107a(a)(3)(A) of this code to any vehicle the sale of which qualifies for a tax credit as provided by this article.

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§11-13FF-5. Legislative rules.

The Tax Commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code as may be necessary to carry out the purposes of this article.

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§11-13FF-6. Tax credit review report.

Beginning on the first day of the second taxable year after the passage of this article and every two years thereafter, the division shall submit to the Governor, the President of the Senate and the Speaker of the House of Delegates a tax credit review and accountability report evaluating the cost effectiveness of the tax credit and donations during the most recent two-year period for which information is available.

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§11-13FF-7. Effective date.

The credit allowed by this article shall be allowed upon donations occurring after December 31, 2020.

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