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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



ENROLLED

SENATE BILL NO. 522

(By Senator Craigo, et al)



PASSED March 10, 2000

In Effect July 1, 2000 ~~Passage~~

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Senate Bill No. 522

(BY SENATORS CRAIGO, SHARPE, JACKSON, CHAFIN, PREZIOSO,
LOVE, WALKER, BOWMAN, HELMICK, ANDERSON, UNGER,
EDGELL, BOLEY, MINEAR AND SPROUSE)

[Passed March 10, 2000; to take effect July 1, 2000.]

AN ACT to amend and reenact section six, article thirteen-j, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the neighborhood investment program; and allowing any taxpayer who makes an eligible contribution to a qualified charitable organization to claim the credit against personal income tax.

Be it enacted by the Legislature of West Virginia:

That section six, article thirteen-j, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13J. NEIGHBORHOOD INVESTMENT PROGRAM.

§11-13J-6. Application of annual credit allowance.

1 (a) *In general.* – The aggregate annual credit allowance
2 for a current tax year is an amount equal to the sum of the
3 following:

4 (1) The portion allowed under section five of this
5 article for an eligible contribution placed into service or
6 use during a prior tax year; plus

7 (2) The portion allowed under section five of this
8 article for an eligible contribution placed into service or
9 use during the current tax year.

10 (b) *Application of credit allowance.* – The amount
11 determined under subsection (a) of this section shall be
12 allowed as a credit for tax years ending on and after the
13 first day of July, one thousand nine hundred ninety-six, as
14 follows:

15 (1) *Business franchise taxes.* –

16 The amount determined under subsection (a) of this
17 section shall be applied to reduce up to fifty percent of the
18 taxes imposed by article twenty-three of this chapter for
19 the tax year (determined after application of the credits
20 against tax provided in section seventeen of said article,
21 but before application of any other allowable credits
22 against tax).

23 (2) *Corporation net income taxes.* – After application
24 of subdivision (1) of this subsection, any unused credit
25 shall next be applied to reduce up to fifty percent of the
26 taxes imposed by article twenty-four of this chapter, for
27 the tax year (determined before application of allowable
28 credits against tax).

29 (3) *Personal income taxes.* –

30 (A) If the eligible taxpayer is an electing small business
31 corporation (as defined in Section 1361 of the United
32 States Internal Revenue Code), a limited liability company

33 treated as a partnership for purposes of the federal income
34 tax, a partnership or a sole proprietorship, then any
35 unused credit (after application of subdivisions (1) and (2)
36 of this subsection) shall be allowed as a credit against up
37 to fifty percent of the taxes imposed by article twenty-one
38 of this chapter on income of proprietors, partners or
39 shareholders, subject to the limitations set forth in para-
40 graphs (B) and (C) of this subdivision.

41 (B) Electing small business corporations, partnerships
42 and other unincorporated organizations shall allocate the
43 credit allowed by this article among the members thereof
44 in the same manner as profits and losses are allocated for
45 the tax year.

46 (C) Any taxpayer subject to the personal income tax
47 under article twenty-one of this chapter, who makes an
48 eligible contribution to a qualified charitable organiza-
49 tion, and receives back from that organization a properly
50 completed neighborhood investment program tax credit
51 voucher, is eligible to claim the credit. The credit shall be
52 allowed without regard to the source of that income,
53 whether it is from wages, passive investment or retirement
54 income, income from a trade or business or any other
55 source.

56 (c) *Unused credit forfeited.* – If any credit to an eligible
57 taxpayer remains after application of subsections (a) and
58 (b) of this section, the amount thereof may be carried
59 forward no more than four years from the tax year in
60 which the contribution was made. Unused credits of an
61 eligible taxpayer may not be carried forward beyond the
62 time limits imposed under section five of this article and
63 the total maximum aggregate tax credits certified in any
64 state fiscal year may not exceed two million dollars.

65 (d) *Addition of deductions, decreasing adjustments or*
66 *decreasing modifications taken in determining taxable*

67 *income for which credit is taken.* – Any deduction, de-
68 creasing adjustment or decreasing modification taken by
69 any taxpayer in determining federal taxable income which
70 affects West Virginia taxable income or in determining
71 West Virginia taxable income under article twenty-one or
72 twenty-four of this chapter for the taxable year for any
73 charitable contribution, or payment or portion thereof,
74 which qualifies as an eligible contribution under this
75 article and for which credit is claimed, shall be added to
76 West Virginia taxable income in determining the tax
77 liability of the taxpayer under article twenty-one or
78 twenty-four of this chapter, as appropriate, before appli-
79 cation of the credit allowed under this article for the
80 taxable year.

81 (e) *Annual limit.* -- The aggregate annual credit
82 allowance to any taxpayer may not exceed one hundred
83 thousand dollars in any tax year.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originating in the Senate.

Takes effect July 1, 2000.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within..... *approved* this the *24th*
Day of..... *March*, 2000

[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/50

Time 13:25 pm