

Rulings of the Tax Commissioner

Document Number: 00-106
Tax Type: Corporation Income Tax; Fiduciary Income Tax; Individual Income Tax
Brief Description: Donation of land for conservation and preservation purposes; Credits
Topics: Credits
Date Issued: 05/30/2000

May 30, 2000

Re: Ruling Request: Income Tax

Dear ****

This letter will reply to your request for a clarification of the Virginia Land Conservation Incentives Act of 1999 (the "Act").

FACTS

In 1999, the General Assembly passed House Bill 1752 (Chapter 983 of the 1999 Acts of Assembly) and Senate Bill 1218 (Chapter 968 of the 1999 Acts of Assembly) which created the Act. The Act (codified at Code of Virginia § 58.1-510 through 513) provides an income tax credit for individuals, estates, trusts, and corporations that donate land or and interest in land for conservation and preservation purposes. The credit is equal to 50% of the "fair market value" of the qualified donation. The amount of the credit that can be claimed cannot exceed \$50,000 for the 2000 taxable year, \$75,000 for the 2001 taxable year, and \$100,000 for taxable years thereafter (the "annual limitation"). The credit is not refundable, but can be carried forward for up to five years.

As a means of demonstrating how the credit operates, you have presented a factual situation for consideration. Under your fact scenario, a Virginia taxpayer (the "Taxpayer") makes a qualified donation in taxable year 2000. The fair market value of the qualified donation, supported by an appraisal, is \$2 million. The Taxpayer expects to have state income tax liabilities of \$70,000 for the 2000 taxable year, \$90,000 for the 2001 taxable year, \$140,000 for the 2002 taxable year and \$120,000 for the 2003 through 2005 taxable years.

Your question relates to how the annual limitation effects a taxpayer's ability to use

of the tax credit. Specifically, you are requesting clarification as to whether a taxpayer that earns a credit that exceeds the annual limitation would be able to carry forward unused amounts of the credit that exceed the annual limitation.

RULING

Under Code of Virginia § 58.1-512(A), the tax credit is equal to 50% of the fair market value of qualifying donations. However, the Act limits the taxpayer's credit to the lesser of the taxpayer's income tax liability or the annual limitation. At issue is whether the \$50,000 annual limitation caps the amount of the credit that can be earned on a qualified donation.

Code of Virginia § 58.1-512(B) states "(T)he amount of the credit that may be claimed by a taxpayer shall not exceed \$50,000 for 2000 taxable years, \$75,000 for 2001 taxable years, and \$100,000 for 2002 taxable years and thereafter." (Emphasis added.) Based on the language in the statute, the annual limitation caps the amount that a taxpayer can claim in any given taxable year and not the amount that can be earned. In addition, the statute further limits the amount of the credit that can be claimed in a given taxable year to a taxpayer's tax liability when the annual limitation exceeds the tax liability.

In the example given, the Taxpayer would earn a credit equal to 50% of the \$2 million fair market value of the qualified donation or \$1 million for the 2000 taxable year, but could only use a maximum of \$50,000 to reduce state income tax. Because the Taxpayer's taxable year 2000 tax liability is \$70,000, the amount of the tax credit that could be claimed would be limited to \$50,000. However, the Taxpayer would be able to carry \$950,000 forward to the five subsequent years.

The annual limitation amounts also apply to credit carryforwards. In this case, the Taxpayer has a \$90,000 income tax liability for the 2001 taxable year, and a \$950,000 credit carryforward from the prior taxable year that is subject to the lesser to the income tax liability or the \$75,000 annual limitation. As a result, the Taxpayer could only claim a credit of \$75,000 and carry the remaining \$875,000 forward.

For the 2002 taxable year and thereafter, the credit's annual limitation increases to \$100,000. Because the Taxpayer's income tax liability is expected to exceed the annual limitation for the remaining taxable years to which the credit could be carried forward, the amount of credit for the 2002 through 2005 taxable years would be limited to \$100,000 for each year or \$400,000 in aggregate. This means that the Taxpayer would have \$475,000 (\$875,000 - \$400,000) that would expire at the end

of the carryforward period. Stated another way, the maximum amount of a \$1 million credit that the Taxpayer could claim for the 2000 through 2005 taxable years would be \$525,000. The following table illustrates this fact situation:

Taxable Income Tax Credit Annual Credit Carried

Year Liability Earned Limitation Forward

2000 \$70,000 \$1,000,000 \$50,000 \$950,000

2001 \$90,000 \$75,000 \$875,000

2002 \$140,000 \$100,000 \$775,000

2003 \$120,000 \$100,000 \$675,000

2004 \$120,000 \$100,000 \$575,000

2005 \$120,000 \$100,000 \$475,000*

Total \$660,000 \$1,000,000 **\$525,000**

* Amount of Credit Lost

Taxpayers earning credits for qualifying donations made in their 2001 taxable year could claim a maximum of \$575,000 in aggregate for the 2001 through 2006 taxable years. For taxable years beginning on or after January 1, 2002, the maximum aggregate credit that could be claimed increases to \$600,000.

I trust this ruling has answered your question. If you have any questions, you can contact ***** of my Office of Tax Policy at *****.

Sincerely,

Danny M. Payne
Tax Commissioner

OTP/290750
