

House Bill 217 (COMMITTEE SUBSTITUTE)

By: Representatives Carson of the 46th, Kelley of the 16th, Knight of the 130th, Ehrhart of the 36th, Stephens of the 164th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to imposition, rate, computation, and exemptions from state income taxes, so as to
3 increase the amount of the aggregate cap on contributions to certain scholarship
4 organizations in order to receive income tax credits; to provide for procedures, conditions,
5 and limitations; to amend Chapter 2A of Title 20 of the Official Code of Georgia Annotated,
6 relating to student scholarship organizations, so as to provide for additional reporting
7 requirements; to provide for related matters; to provide for an effective date and
8 applicability; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
12 imposition, rate, computation, and exemptions from state income taxes, is amended by
13 revising subsection (f) of Code Section 48-7-29.16, relating to the qualified education tax
14 credit, as follows:

15 "(f)(1) In no event shall the aggregate amount of tax credits allowed under this Code
16 section exceed:

17 (A) Fifty-eight \$58 million per dollars for the tax year ending on December 31, 2017;
18 and

19 (B) Sixty-five million dollars for the tax year ending on December 31, 2018.

20 Beginning in 2019, and for all subsequent tax years, such base amount of tax credits shall
21 increase by 10 percent from the previous year's base amount; provided, however, that the
22 base amount of tax credits shall never exceed \$100 million. The annual increases
23 specified in this paragraph are contingent upon full preapproval of the prior year's
24 applicable limit as certified by the commissioner. The annual 10 percent increase shall
25 not apply to any amount specified in subparagraph (C) of this paragraph.

26 (C) Any portion of the tax credits allowed under this Code section that are not
 27 approved by the commissioner, or, if approved, not funded by the taxpayer, shall be
 28 applied to the next calendar year in the manner specified by the commissioner.

29 (2) The commissioner shall ~~allow~~ allocate the tax credits ~~on a first come, first served~~
 30 basis as follows:

31 (A) The total aggregate amount of tax credits preapproved for C corporations, trusts,
 32 or other similar entities that qualify for the credit under subsection (c) of this Code
 33 section shall be 25 percent of the total available amount of tax credits preapproved
 34 under this Code section for any taxable year; and

35 (B) The credits shall be available for allocation for the first 10 business days of each
 36 calendar year. During such period, the commissioner shall accept requests for
 37 preapproval for tax credits from interested taxpayers. Once all requests have been
 38 received, the commissioner shall allocate the available credits for each applicable cap
 39 pro rata for that calendar year if the amount of tax credits requested exceeds the
 40 applicable cap. If the amount of tax credits requested does not exceed the applicable
 41 cap, the commissioner shall continue to accept requests until November 1 of such
 42 calendar year or until the aggregate amount of the applicable cap for the calendar year
 43 is exhausted, whichever shall first occur.

44 (3) For the purposes of paragraph (1) of this subsection, a student scholarship
 45 organization shall notify a potential donor of the requirements of this Code section.
 46 Before making a contribution to a student scholarship organization, the taxpayer shall
 47 electronically notify the department, in a manner specified by the department, of the total
 48 amount of contributions that the taxpayer intends to make to the student scholarship
 49 organization. The commissioner shall ~~preapprove, or deny, or prorate~~ the requested
 50 amount ~~within 30 days~~ after receiving the request from the taxpayer and shall provide
 51 notice to the taxpayer and the student scholarship organization of such ~~preapproval, or~~
 52 ~~denial, or proration~~ which shall not require any signed release or notarized approval by
 53 the taxpayer. In order to receive a tax credit under this Code section, the taxpayer shall
 54 make the contribution to the student scholarship organization within 60 days after
 55 receiving notice from the department that the requested amount was preapproved. If the
 56 taxpayer does not comply with this paragraph, the commissioner shall not include this
 57 preapproved contribution amount when calculating the limit prescribed in paragraph (1)
 58 of this subsection. The department shall establish a web based donation approval process
 59 to implement this subsection.

60 (4) Preapproval of contributions by the commissioner shall be based solely on the
 61 availability of tax credits subject to the aggregate total limit established under

62 paragraph (1) of this subsection. The department shall maintain an ongoing, current list
63 on its website of the amount of tax credits available under this Code section.

64 (5) Notwithstanding any laws to the contrary, the department shall not take any adverse
65 action against donors to student scholarship organizations if the commissioner
66 preapproved a donation for a tax credit prior to the date the student scholarship
67 organization is removed from the Department of Education list pursuant to Code Section
68 20-2A-7, and all such donations shall remain as preapproved tax credits subject only to
69 the donor's compliance with paragraph (3) of this subsection.

70 (6) In addition to the reporting requirements in Code Section 20-2A-3, each student
71 scholarship organization shall file an annual report with the department showing any fees
72 or assessments retained by the student scholarship organization during the calendar year."

73

SECTION 2.

74 Chapter 2A of Title 20 of the Official Code of Georgia Annotated, relating to student
75 scholarship organizations, is amended by revising Code Section 20-2A-3, relating to taxation
76 reporting requirements for student scholarship organizations, as follows:

77 "20-2A-3.

78 (a) Each student scholarship organization must report to the Department of Revenue, on
79 a date determined by the Department of Revenue and on a form provided by the
80 Department of Revenue, ~~by January 12 of each tax year~~ the following:

81 (1) The total number and dollar value of individual contributions and tax credits
82 approved. Individual contributions shall include contributions made by those filing
83 income tax returns as a single individual or head of household and those filing joint
84 returns;

85 (2) The total number and dollar value of corporate contributions and tax credits
86 approved;

87 (3) The total number and dollar value of scholarships awarded to eligible students;

88 (4) The total number of families of scholarship recipients who fall within each quartile
89 of Georgia adjusted gross income as defined and reported annually by the Department of
90 Revenue and the average number of dependents of recipients for each quartile; ~~and~~

91 (5) A list of donors, including the dollar value and date of receipt of each donation and
92 the dollar value of each approved tax credit; and

93 (6) The average scholarship dollar amount by quartile.

94 Such report shall also include a copy of the audit conducted pursuant to paragraph (5) of
95 Code Section 20-2A-2. The Department of Revenue shall post on its website the
96 information received from each student scholarship organization pursuant to paragraphs
97 (1) through (4) of this subsection.

98 (b) Except for the information reported pursuant to paragraphs (1) through (4) of
99 subsection (a) of this Code section, all information or reports provided by student
100 scholarship organizations to the Department of Revenue shall be confidential taxpayer
101 information, governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether it relates
102 to the donor or the student scholarship organization."

103 **SECTION 3.**

104 This Act shall become effective upon its approval by the Governor or upon its becoming law
105 without such approval and shall be applicable to tax years beginning on or after January 1,
106 2017.

107 **SECTION 4.**

108 All laws and parts of laws in conflict with this Act are repealed.