

2021 Regular Session

HOUSE BILL NO. 314

BY REPRESENTATIVE WRIGHT

TAX CREDITS: Provides an income tax credit for contributions to certain foster care charitable organizations

1 AN ACT

2 To enact R.S. 47:6042, relative to income tax credits; to establish an income tax credit for
3 donations to certain foster care organizations; to provide for definitions; to provide
4 for the amount of the credit; to provide for the application for and granting of the
5 credit; to provide for certain requirements; to authorize the promulgation of rules;
6 to provide for applicability; to provide for an effective date; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:6042 is hereby enacted to read as follows:

10 §6042. Credits; qualifying foster care charitable organizations

11 A.(1)(a) There shall be allowed a nonrefundable income tax credit for
12 donations a Louisiana taxpayer makes during a taxable year to a qualifying foster
13 care charitable organization. The amount of the credit shall be equal to the actual
14 amount of the donation used by the foster care organization to provide services to
15 qualified individuals, or fifty thousand dollars, whichever is less.

16 (b) The total amount of credits granted by the department pursuant to the
17 provisions of this Section shall not exceed five hundred thousand dollars per calendar
18 year. The granting of credits shall be on a first-come, first-served basis. If the total
19 amount of credits claimed in any particular calendar year exceeds the amount of tax
20 credits authorized for that year, the excess shall be treated as having been applied for

1 on the first day of the subsequent year. All requests received on the same business
2 day shall be treated as received at the same time, and if the aggregate amount of the
3 requests received on a single business day exceeds the total amount of available tax
4 credits, tax credits shall be approved on a pro rata basis.

5 (c) The credit may be used in addition to any federal tax credit or deduction
6 earned for the same donation. However, a taxpayer shall not receive any other state
7 tax credit, exemption, exclusion, deduction, rebate, or any other state tax benefit for
8 a donation for which the taxpayer has received a tax credit pursuant to this Section.

9 (2) If the tax credit earned pursuant to this Section exceeds the total tax
10 liability of a taxpayer in the taxable year, the amount of the credit not used as an
11 offset against the taxpayer's tax liability in the taxable year may be carried forward
12 as a credit against subsequent income tax liabilities for a period not to exceed five
13 taxable years.

14 B. An organization that seeks to become a qualifying foster care charitable
15 organization shall apply to the department and provide the following:

16 (1) A statement, signed by an officer of the organization under penalty of
17 perjury, that the organization meets all of the criteria provided in Paragraph (F)(3)
18 of this Section.

19 (2) A copy of the exemption letter from the Internal Revenue Service
20 verifying the organization is exempt from federal income tax pursuant to Section
21 501(c)(3) of the Internal Revenue Code.

22 (3) A copy of the organization's operating budget for the prior operating year
23 and the amount of the budget spent on providing services to qualified individuals.

24 (4) A copy of any federal income tax return filed by the organization for the
25 prior year.

26 (5) A copy of the financial statements and detailed schedule of expenses for
27 the organization from the prior year.

28 (6) A schedule detailing how the organization calculated the percentage of
29 its budget spent on providing services to qualified individuals.

1 (7) A statement that the organization intends to continue spending at least
2 seventy-five percent of its total budget on providing services to qualified individuals
3 or intends to continue spending at least seventy-five percent of its funds budgeted for
4 Louisiana on providing services to qualified individuals and that one hundred percent
5 of the donations it receives from Louisiana residents will be spent on providing
6 services to qualified individuals.

7 (8) Any other information that the department requires in order to administer
8 this Section.

9 C.(1) No later than the next January thirty-first following approval by the
10 department and annually thereafter no later than January thirty-first, each foster care
11 organization shall file a report with the department prepared by an independent
12 certified public accountant who is not related to a donor or affiliated with the foster
13 care organization.

14 (2) Each report required pursuant to Paragraph (1) of this Subsection shall
15 contain the following:

16 (a) A certification that the organization continues to meet the requirements
17 of this Section.

18 (b) The name, social security number, address, and Louisiana and federal
19 taxpayer identification numbers of each person who made a donation to the foster
20 care organization during the prior calendar year.

21 (c) The amount of each donation received during the prior calendar year.

22 (d) The amount of each donation utilized during the prior calendar year to
23 provide services to qualified individuals and the services provided.

24 (e) Any other information or documentation required by the department.

25 D.(1) A qualified foster care charitable organization shall issue a receipt to
26 each person from whom the foster care organization receives a donation. The receipt
27 shall indicate the actual amount of the donation that was used by the foster care
28 organization to provide services to qualified individuals. A taxpayer shall provide

1 a copy of the receipt to the department when claiming the credit authorized by this
2 Section.

3 (2) The department shall provide a standardized format for the receipt
4 required pursuant to this Subsection.

5 E. The secretary of the department may promulgate rules in accordance with
6 the provisions of the Administrative Procedure Act to implement the provisions of
7 this Section.

8 F. For purposes of this Section, the following words shall have the following
9 meanings unless the context clearly indicates otherwise:

10 (1) "Department" means the Department of Revenue.

11 (2) "Louisiana taxpayer" or "taxpayer" means a person who is required to file
12 a Louisiana income tax return.

13 (3) "Qualified individual" means a child in a foster care placement program
14 established by the Department of Children and Family Services.

15 (4) "Qualifying foster care charitable organization" or "foster care
16 organization" means an organization that meets all of the following criteria:

17 (a) Is exempt from federal income tax pursuant to Section 501(c)(3) of the
18 Internal Revenue Code.

19 (b) Provides services to at least twenty-five qualified individuals each
20 operating year.

21 (c) Spends at least seventy-five percent of its total budget on providing
22 services to qualified individuals or spends at least seventy-five percent of its funds
23 budgeted for Louisiana on providing services to qualified individuals and the
24 organization certifies to the department that one hundred percent of the donations it
25 receives from Louisiana residents will be spent on providing services to qualified
26 individuals.

27 (d) Is approved by the department after applying as provided in Subsection
28 B of this Section.

1 (5) "Services" means cash assistance, medical care, child care, food,
 2 clothing, shelter, job placement, and job-training services or any other assistance
 3 reasonably necessary to meet immediate basic needs that are provided to a qualified
 4 individual and used in Louisiana.

5 Section 2. The provisions of this Act shall be applicable to donations made by
 6 taxpayers to qualifying foster care charitable organizations on or after January 1, 2022.

7 Section 3. This Act shall become effective upon signature by the governor or, if not
 8 signed by the governor, upon expiration of the time for bills to become law without signature
 9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 10 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 11 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 314 Original

2021 Regular Session

Wright

Abstract: Authorizes a nonrefundable income tax credit for donations a taxpayer makes to certain foster care organizations equal to the actual amount of the donation used by the organization to provide services to certain qualified individuals in La., or \$50,000, whichever is less.

Proposed law authorizes a nonrefundable income tax credit for donations a La. taxpayer makes during a taxable year to qualifying foster care charitable organizations, hereinafter "foster care organizations".

Proposed law provides that the amount of the credit is equal to the amount of the donation used by the foster care organization to provide services to a qualified individual, or \$50,000, whichever is less. The total amount of credits granted pursuant to proposed law shall not exceed \$500,000 per calendar year.

Proposed law requires the credits to be granted on a first-come, first-served basis. If the total amount of credits claimed in a calendar year exceeds the amount of tax credits authorized for that year, the excess shall be treated as having been claimed on the first day of the subsequent year.

Proposed law authorizes a taxpayer to carry forward the amount of the tax credit not used as an offset against the taxpayer's subsequent tax liability for a period not to exceed five taxable years.

Proposed law requires an organization that seeks to become a qualifying foster care charitable organization to apply to the Dept. of Revenue (DOR) and provide certain information. Requires a foster care organization to annually file a report with DOR.

Proposed law defines "Louisiana taxpayer" or "taxpayer" as a person who is required to file a La. income tax return.

Proposed law defines "qualifying foster care charitable organization" or "foster care organization" as an organization that meets all of the following criteria:

- (1) Is exempt from federal income tax pursuant to federal law.
- (2) Provides services to at least 25 qualified individuals each operating year.
- (3) Spends at least 75% of its total budget on providing services to qualified individuals or spends at least 75% of its funds budgeted for La. on providing services to qualified individuals and the organization certifies to DOR that 100% of the donations it receives from La. residents will be spent on providing services to qualified individuals.
- (4) Is approved by DOR after applying as provided in proposed law.

Proposed law defines a "qualified individual" as a child in a foster care placement program established by the Dept. of Children and Family Services.

Proposed law defines "services" as cash assistance, medical care, child care, food, clothing, shelter, job placement, and job-training services or any other assistance reasonably necessary to meet immediate basic needs that are provided for a qualified individual and used in La.

Proposed law requires a qualified foster care charitable organization to issue a receipt to each person from whom the foster care organization receives a donation. Requires the receipt to indicate the actual amount of the taxpayer's donation that was used by the foster care organization to provide services to qualified individuals. Requires a taxpayer to provide a copy of the receipt to DOR when claiming the credit authorized by proposed law.

Effective Jan. 1, 2022, and applicable to donations made by a taxpayer to a qualifying foster care charitable organization on or after Jan. 1, 2022.

(Adds R.S. 47:6042)