

1                   **INCOME TAX CREDITS FOR CONTRIBUTION TO**  
2                   **COMMUNITY FOUNDATION PERMANENT ENDOWMENT FUND**

3                                   2011 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: David Litvack**

6                                   Senate Sponsor: \_\_\_\_\_

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill amends the Corporate Franchise and Income Taxes chapter and the Individual  
11                   Income Tax Act to enact income tax credits.

12                   **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ defines terms;
- 15                   ▶ enacts nonrefundable corporate and individual income tax credits for a contribution  
16                   to a community foundation permanent endowment fund;
- 17                   ▶ addresses the apportionment of the tax credits; and
- 18                   ▶ makes technical and conforming changes.

19                   **Money Appropriated in this Bill:**

20                   None

21                   **Other Special Clauses:**

22                   This bill takes effect for a taxable year beginning on or after January 1, 2012.

23                   **Utah Code Sections Affected:**

24                   AMENDS:

25                   **59-10-1002.2**, as renumbered and amended by Laws of Utah 2008, Chapter 389

26                   ENACTS:

27                   **59-7-614.6**, Utah Code Annotated 1953



28           **59-10-1025**, Utah Code Annotated 1953



30 *Be it enacted by the Legislature of the state of Utah:*

31           Section 1. Section **59-7-614.6** is enacted to read:

32           **59-7-614.6. Nonrefundable tax credit for contribution to community foundation**  
33 **permanent endowment fund.**

34           (1) As used in this section:

35           (a) "Eligible community foundation" means a foundation that:

36           (i) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue  
37 Code;

38           (ii) is designated by the Internal Revenue Service as an organization that meets the  
39 requirements of Sections 170(b)(i)(A)(vi) and 509(a)(1), Internal Revenue Code;

40           (iii) has the powers of modification and removal described in 26 C.F.R.

41 1.170A-9(e)(11)(v)(B), subject to 26 C.F.R. 1.170A-9(e)(11)(v)(C) and (D);

42           (iv) is organized or operates in the state;

43           (v) provides financial support to one or more organizations that perform charitable  
44 functions or activities within the state; and

45           (vi) is governed by a board that represents the community the foundation serves.

46           (b) "Eligible contribution" means an irrevocable contribution to a permanent  
47 endowment fund held by an eligible community foundation.

48           (c) "Permanent endowment fund" means an endowment fund:

49           (i) held by an eligible community foundation;

50           (ii) that is intended to be kept permanently and invested to generate income; and

51           (iii) that provides financial support to one or more organizations that perform  
52 charitable functions or activities within the state.

53           (d) "State income tax percentage" is a percentage calculated on the basis of a fraction:

54           (i) the numerator of which is a taxpayer's income allocated or apportioned to the state  
55 under Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, for a  
56 taxable year; and

57           (ii) the denominator of which is the taxpayer's adjusted income for that taxable year.

58           (2) Except as provided in Subsection (3), a taxpayer may claim a nonrefundable tax

59 credit equal to the amount of an eligible contribution the taxpayer makes to an eligible  
 60 community foundation.

61 (3) (a) For a taxable year, a tax credit under this section may not exceed the product of  
 62 the following on a return:

63 (i) \$20,000; and

64 (ii) the taxpayer's state income tax percentage.

65 (b) A taxpayer may not claim a tax credit under this section for an amount the taxpayer  
 66 claims:

67 (i) as a deduction or subtraction:

68 (A) on a federal income tax return; or

69 (B) return filed under this chapter; or

70 (ii) as a tax credit:

71 (A) on a federal income tax return; or

72 (B) as allowed under this chapter other than this section.

73 (4) A taxpayer may not carry forward or carry back a tax credit under this section.

74 (5) (a) On or before October 1, 2015, and every five years after October 1, 2015, the  
 75 Utah Tax Review Commission shall review the tax credit allowed by this section and make  
 76 recommendations to the Revenue and Taxation Interim Committee concerning whether the tax  
 77 credit should be continued, modified, or repealed.

78 (b) The Utah Tax Review Commission's report under Subsection (5)(a) shall include  
 79 information concerning the cost of the tax credit, the purpose and effectiveness of the tax  
 80 credit, and the state's benefit from the tax credit.

81 Section 2. Section **59-10-1002.2** is amended to read:

82 **59-10-1002.2. Apportionment of tax credits.**

83 (1) A nonresident individual or a part-year resident individual that claims a tax credit  
 84 in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1021, 59-10-1022,  
 85 59-10-1023, ~~or~~ 59-10-1024, or 59-10-1025 may only claim an apportioned amount of the tax  
 86 credit equal to:

87 (a) for a nonresident individual, the product of:

88 (i) the state income tax percentage for the nonresident individual; and

89 (ii) the amount of the tax credit that the nonresident individual would have been

90 allowed to claim but for the apportionment requirements of this section; or

91 (b) for a part-year resident individual, the product of:

92 (i) the state income tax percentage for the part-year resident individual; and

93 (ii) the amount of the tax credit that the part-year resident individual would have been

94 allowed to claim but for the apportionment requirements of this section.

95 (2) A nonresident estate or trust that claims a tax credit in accordance with Section

96 59-10-1017, 59-10-1020, 59-10-1022, ~~or~~ 59-10-1024, or 59-10-1025 may only claim an

97 apportioned amount of the tax credit equal to the product of:

98 (a) the state income tax percentage for the nonresident estate or trust; and

99 (b) the amount of the tax credit that the nonresident estate or trust would have been

100 allowed to claim but for the apportionment requirements of this section.

101 Section 3. Section **59-10-1025** is enacted to read:

102 **59-10-1025. Nonrefundable tax credit for contribution to community foundation**  
103 **permanent endowment fund.**

104 (1) As used in this section:

105 (a) "Eligible community foundation" means a foundation that:

106 (i) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue  
107 Code;

108 (ii) is designated by the Internal Revenue Service as an organization that meets the  
109 requirements of Sections 170(b)(i)(A)(vi) and 509(a)(1), Internal Revenue Code;

110 (iii) has the powers of modification and removal described in 26 C.F.R.

111 1.170A-9(e)(11)(v)(B), subject to 26 C.F.R. 1.170A-9(e)(11)(v)(C) and (D);

112 (iv) is organized or operates in the state;

113 (v) provides financial support to one or more organizations that perform charitable  
114 functions or activities within the state; and

115 (vi) is governed by a board that represents the community the foundation serves.

116 (b) "Eligible contribution" means an irrevocable contribution to a permanent  
117 endowment fund held by an eligible community foundation.

118 (c) "Permanent endowment fund" means an endowment fund:

119 (i) held by an eligible community foundation;

120 (ii) that is intended to be kept permanently and invested to generate income; and

121 (iii) that provides financial support to one or more organizations that perform  
122 charitable functions or activities within the state.

123 (2) Except as provided in Section 59-10-1002.2 and Subsection (3), a claimant, estate,  
124 or trust may claim a nonrefundable tax credit equal to the amount of an eligible contribution  
125 the claimant, estate, or trust makes to an eligible community foundation.

126 (3) (a) For a taxable year, a tax credit under this section may not exceed \$20,000 on a  
127 return.

128 (b) A claimant, estate, or trust may not claim a tax credit under this section for an  
129 amount the claimant, estate, or trust claims:

130 (i) as a deduction or subtraction:

131 (A) on a federal income tax return; or

132 (B) return filed under this chapter; or

133 (ii) as a tax credit:

134 (A) on a federal income tax return; or

135 (B) as allowed under this chapter other than this section.

136 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under  
137 this section.

138 (5) (a) On or before October 1, 2015, and every five years after October 1, 2015, the  
139 Utah Tax Review Commission shall review the tax credit allowed by this section and make  
140 recommendations to the Revenue and Taxation Interim Committee concerning whether the tax  
141 credit should be continued, modified, or repealed.

142 (b) The Utah Tax Review Commission's report under Subsection (5)(a) shall include  
143 information concerning the cost of the tax credit, the purpose and effectiveness of the tax  
144 credit, and the state's benefit from the tax credit.

145 **Section 4. Effective date.**

146 This bill takes effect for a taxable year beginning on or after January 1, 2012.

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**Legislative Review Note**  
**as of 2-4-11 12:04 PM**

**Office of Legislative Research and General Counsel**