

## House Bill 1146

By: Representatives Meadows of the 5<sup>th</sup>, Smith of the 131<sup>st</sup>, Dickson of the 6<sup>th</sup>, Williams of the 4<sup>th</sup>, Maxwell of the 17<sup>th</sup>, 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 the imposition, rate, and computation of income tax, so as to provide for income  
3 tax credits with respect to qualified donations to community foundations; to provide for  
4 definitions; to provide for conditions, limitations, and exclusions; to provide for authority of  
5 the state revenue commissioner with respect to the foregoing; to provide an effective date;  
6 to provide for applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the  
10 imposition, rate, and computation of income tax, is amended by adding a new Code section  
11 immediately following Code Section 48-7-29.9, to be designated Code Section 48-7-29.10,  
12 to read as follows:

13 "48-7-29.10.

14 (a) As used in this Code section, the term 'community foundation' means an organization  
15 that applies for certification on or before May 15 of the tax year for which the taxpayer is  
16 claiming the credit and that the department certifies for that tax year as meeting all of the  
17 following requirements:

- 18 (1) Qualifies for exemption from federal income taxation under Section 501(c)(3) of the  
19 Internal Revenue Code;
- 20 (2) Supports a broad range of charitable activities within the specific geographic area of  
21 this state that it serves, such as a municipality or county;
- 22 (3) Maintains an ongoing program to attract new endowment funds by seeking gifts and  
23 bequests from a wide range of potential donors in the community or area served;
- 24 (4) Is publicly supported as defined by the regulations of the United States Department  
25 of Treasury, 26 C.F.R. 1.170A-9(e)(10). To maintain certification, the community

1 foundation shall submit documentation to the department annually that demonstrates  
2 compliance with this subdivision;

3 (5) Is not a supporting organization as an organization is described in Section 509(a)(3)  
4 of the Internal Revenue Code and the regulations of the United States Department of  
5 Treasury, 26 C.F.R. 1.509(a)-4 and 1.509(a)-5;

6 (6) Meets the requirements for treatment as a single entity contained in the regulations  
7 of the United States Department of Treasury, 26 C.F.R. 1.170A-9(e)(11);

8 (7) Except as provided in subsection (e) of this Code section, is incorporated or  
9 established as a trust at least six months before the beginning of the tax year for which  
10 the credit under this Code section is claimed and that has an endowment value of at least  
11 \$100,000.00 before the expiration of 18 months after the community foundation is  
12 incorporated or established;

13 (8) Has an independent governing body representing the general public's interest and  
14 that is not appointed by a single outside entity;

15 (9) Provides evidence to the department that the community foundation has, before the  
16 expiration of six months after the community foundation is incorporated or established,  
17 and maintains continually during the tax year for which the credit under this Code section  
18 is claimed, at least one part-time or full-time employee;

19 (10) For community foundations that have an endowment value of \$1 million or more  
20 only, the community foundation is subject to an annual independent financial audit and  
21 provides copies of that audit to the department not more than three months after the  
22 completion of the audit. For community foundations that have an endowment value of  
23 less than \$1 million, the community foundation is subject to an annual review and an  
24 audit every third year; and

25 (11) For a community foundation that is incorporated or established after January 1,  
26 2007, operates in a county of this state that was not served by a community foundation  
27 when the community foundation was incorporated or established or operates as a  
28 geographic component of an existing certified community foundation.

29 (b) A taxpayer may credit against the tax imposed by this chapter 50 percent of the amount  
30 the taxpayer contributes during the tax year to an endowment fund of a community  
31 foundation; or a taxpayer may credit against the tax imposed by this chapter 50 percent of  
32 the cash amount the taxpayer contributes during the tax year to a shelter for homeless  
33 persons, food kitchen, food bank, or other entity located in this state, the primary purpose  
34 of which is to provide overnight accommodation, food, or meals to persons who are  
35 indigent if a contribution to that entity is tax deductible for the donor under the Internal  
36 Revenue Code.

1 (c) For a taxpayer other than a resident estate or trust, the credit allowed by this subsection  
2 for a contribution to a community foundation shall not exceed \$100.00, or \$200.00 for a  
3 husband and wife filing a joint return. A taxpayer may claim an additional credit under this  
4 subsection not to exceed \$100.00, or \$200.00 for a husband and wife filing a joint return,  
5 for total cash contributions made in the tax year to shelters for homeless persons, food  
6 kitchens, food banks, and, except for community foundations, other entities allowed under  
7 subsection (a) of this Code section. For a resident estate or trust, the credit allowed by this  
8 subsection for a contribution to a community foundation shall not exceed 10 percent of the  
9 taxpayer's tax liability for the tax year before claiming any credits allowed by this Code  
10 section or \$5,000.00, whichever is less. A resident estate or trust may claim an additional  
11 credit under this subsection not to exceed 10 percent of the taxpayer's tax liability for the  
12 tax year before claiming any credits allowed by this Code section or \$5,000.00, whichever  
13 is less, for total cash contributions made in the tax year to shelters for homeless persons,  
14 food kitchens, food banks, and, except for community foundations, other entities allowed  
15 under subsection (a) of this Code section. For a resident estate or trust, the amount used  
16 to calculate the credits under this subsection shall not have been deducted in arriving at  
17 federal taxable income.

18 (d) An entity other than a community foundation may request that the department  
19 determine if a contribution to that entity qualifies for the credit under this Code section.  
20 The department shall make a determination and respond to a request no later than 30 days  
21 after the department receives the request.

22 (e) A taxpayer may claim a credit under this Code section for contributions to a  
23 community foundation made before the expiration of the 18-month period after a  
24 community foundation was incorporated or established during which the community  
25 foundation must build an endowment value of \$100,000.00 as provided in paragraph (7)  
26 of subsection (a) of this Code section. If the community foundation does not reach the  
27 required \$100,000.00 endowment value during that 18-month period, contributions to the  
28 community foundation made after the date on which the 18-month period expires shall not  
29 be used to calculate a credit under this Code section. At any time after the expiration of  
30 the 18-month period under paragraph (7) of subsection (a) of this Code section that the  
31 community foundation has an endowment value of \$100,000.00, the community foundation  
32 may apply to the department for certification under this Code section.

33 (f) In no event shall the total amount of any tax credit under this Code section for a taxable  
34 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed to  
35 be carried forward to apply to the taxpayer's succeeding five years' tax liability. No such  
36 tax credit shall be allowed the taxpayer against prior years' tax liability.

1 (g) The commissioner shall promulgate any rules and regulations necessary to implement  
2 and administer this Code section."

3 **SECTION 2.**

4 This Act shall become effective January 1, 2007, and shall be applicable to all taxable years  
5 beginning on or after January 1, 2007.

6 **SECTION 3.**

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