

House Bill 446

By: Representative Kelley of the 16th

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 taxation, so as
3 to provide an exemption for donors to college and career academies; to provide for
4 procedures, conditions, and limitations; to provide for related matters; to provide for an
5 effective date and applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
9 imposition, rate, computation, and exemptions from state income taxation, is amended by
10 adding a new Code section to read as follows:

11 "48-7-29.16A.

12 (a) As used in this Code section, the term:

13 (1) 'Qualified expense' means the expenditure of funds by the taxpayer during the tax
14 year for which a credit under this Code section is claimed and allowed to a qualified
15 school.

16 (2) 'Qualified school' shall mean a college and career academy as defined in paragraph
17 (5) of Code Section 20-4-37.

18 (b) An individual taxpayer shall be allowed a credit against the tax imposed by this chapter
19 for qualified expenses as follows:

20 (1) In the case of a single individual or a head of household, the actual amount expended
21 or \$10,000.00 per tax year, whichever is less;

22 (2) In the case of a married couple filing a joint return, the actual amount expended or
23 \$15,000.00 per tax year, whichever is less; or

24 (3) Anything to the contrary contained in paragraph (1) or (2) of this subsection
25 notwithstanding, in the case of an individual who is a member of a limited liability
26 company duly formed under state law, a shareholder of a Subchapter 'S' corporation, or

27 a partner in a partnership, the actual amount expended or \$10,000.00 per tax year,
28 whichever is less; provided, however, that tax credits pursuant to this paragraph shall
29 only be allowed for the portion of the income on which such tax was actually paid by
30 such member of the limited liability company, shareholder of a Subchapter 'S'
31 corporation, or partner in a partnership.

32 (c) A corporation or other entity shall be allowed a credit against the tax imposed by this
33 chapter for qualified expenses in an amount not to exceed the actual amount expended or
34 \$10,000.00, whichever is less.

35 (d) In no event shall the total amount of the tax credit under this Code section for a taxable
36 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the
37 taxpayer against the succeeding five years' tax liability. No such credit shall be allowed
38 the taxpayer against prior years' tax liability.

39 (e)(1) In no event shall the aggregate amount of tax credits allowed under this Code
40 section exceed \$5 million per tax year. No individual or corporate taxpayer shall
41 contribute more than \$100,000.00 per tax year.

42 (2) The commissioner shall allow the tax credits on a first come, first served basis.

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

57 (4) Preapproval of contributions by the commissioner shall be based solely on the
58 availability of tax credits subject to the aggregate total limit established under paragraph
59 (1) of this subsection. The department shall maintain an ongoing, current list on its
60 website of the amount of tax credits available under this Code section.

61 (f) In order for the taxpayer to claim the qualified school tax credit under this Code
62 section, a letter of confirmation of donation issued by the qualified school to which the
63 contribution was made shall be attached to the taxpayer's tax return. However, in the event

64 the taxpayer files an electronic return, such confirmation shall only be required to be
65 electronically attached to the return if the Internal Revenue Service allows such
66 attachments when the data is transmitted to the department. In the event the taxpayer files
67 an electronic return and such confirmation is not attached because the Internal Revenue
68 Service does not, at the time of such electronic filing, allow electronic attachments to the
69 Georgia return, such confirmation shall be maintained by the taxpayer and made available
70 upon request by the commissioner. The letter of confirmation of donation shall contain the
71 taxpayer's name, address, tax identification number, the amount of the contribution, the
72 date of the contribution, and the amount of the credit.

73 (g) No credit shall be allowed under this Code section with respect to any amount
74 deducted from taxable net income by the taxpayer as a charitable contribution to a bona
75 fide charitable organization qualified under Section 501(c)(3) of the Internal Revenue
76 Code.

77 (h) The commissioner shall be authorized to promulgate any rules and regulations
78 necessary to implement and administer the tax provisions of this Code section."

79 **SECTION 2.**

80 This Act shall become effective on July 1, 2015, and shall be applicable to taxable years after
81 January 1, 2016.

82 **SECTION 3.**

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