

By Senator Margolis

35-204A-05

1 A bill to be entitled
2 An act relating to the corporate income tax;
3 providing a credit against the tax for
4 contributions to nonprofit cultural
5 organizations; providing legislative purpose;
6 defining terms; providing limitations on
7 individual credits; providing that the unused
8 amount of a credit may not be carried forward;
9 prohibiting conveying, assigning, or
10 transferring the credit to another entity
11 except as specified; providing for
12 administration by the Department of Revenue and
13 the Division of Cultural Affairs of the
14 Department of State; requiring the department
15 and the division to adopt rules; providing a
16 tax credit for donations to the Fine Arts Trust
17 Fund; providing that the unused amount of a
18 credit may not be carried forward; prohibiting
19 conveying, assigning, or transferring the
20 credit to another entity, except as specified;
21 providing application procedures; providing for
22 rulemaking by the Department of Revenue and the
23 Department of State; providing legislative
24 intent with respect to the order in which
25 credits may be applied; providing for an
26 addition to taxable income for purposes of
27 computing adjusted federal income, to conform;
28 specifying the maximum amount of annual tax
29 credits which may be granted under the act;
30 providing for expiration of the act; providing
31 an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Credits for contributions to nonprofit
4 cultural organizations.--

5 (1) PURPOSE.--The purpose of this section is to
6 encourage private, voluntary contributions to organizations
7 that promote cultural activities by encouraging the talents of
8 creative individuals or by helping to provide an audience for
9 cultural activities.

10 (2) DEFINITIONS.--As used in this section, the term:

11 (a) "Cultural activities" means dance, music, theater,
12 visual arts, literature, media arts, museum programs, and
13 activities that combine two or more of those disciplines.

14 (b) "Department" means the Department of Revenue.

15 (c) "Division" means the Division of Cultural Affairs
16 of the Department of State.

17 (d) "Eligible contribution" means a monetary
18 contribution from a taxpayer, subject to the restrictions
19 provided in this section, to an eligible cultural
20 organization.

21 (e) "Eligible cultural organization" means a nonprofit
22 cultural organization that is:

23 1. Exempt from federal income tax under s. 501(c)(3)
24 of the Internal Revenue Code;

25 2. In compliance with section 265.702, Florida
26 Statutes; and

27 3. Given priority ranking under rule 1T-1001, Florida
28 Administrative Code.

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1 The term includes educational institutions that are also
2 presenters or producers of cultural activities in this state
3 which otherwise meet these requirements.

4 (3) AUTHORIZATION TO GRANT CULTURAL ORGANIZATIONS TAX
5 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS.--

6 (a) There is allowed a credit of 50 percent of the
7 amount of an eligible contribution, which contribution is in
8 the amount of \$60,000 or more, against any tax due for a
9 taxable year under chapter 220, Florida Statutes. However,
10 such a credit is inapplicable to a particular corporation
11 after the aggregate amount of the contributions to eligible
12 cultural organizations given by the corporation in any one
13 taxable year exceeds \$600,000.

14 (b) A taxpayer who files a Florida consolidated return
15 as a member of an affiliated group under section 220.131(1),
16 Florida Statutes, may be allowed the credit on a consolidated
17 return basis; however, the total credit taken by the
18 affiliated group is subject to the limitation established
19 under paragraph (a).

20 (4) ADMINISTRATION; RULES.--

21 (a) If the credit granted under this section is not
22 fully used in any one year, the unused amount may not be
23 carried forward. A taxpayer may not convey, assign, or
24 transfer the credit authorized by this section to another
25 entity unless all of the assets of the taxpayer are conveyed,
26 assigned, or transferred in the same transaction.

27 (b) An application for a tax credit pursuant to this
28 section must be submitted to the division on forms established
29 by rule of the division. Applications shall be accepted on a
30 first-come, first-served basis beginning July 1, 2005.

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1 (c) A taxpayer must submit a separate application for
2 the tax credit for each individual contribution that it makes
3 to an eligible cultural organization.

4 (d) The granting of tax credit by the division must be
5 in writing and must state the maximum credit allowable to the
6 business firm. A copy of the granting of tax credit must be
7 transmitted to the executive director of the Department of
8 Revenue, who shall apply such credit to the tax liability of
9 the business firm.

10 (e) The department shall adopt rules necessary to
11 administer this section, including rules establishing
12 application forms and procedures.

13 (f) The division shall adopt rules necessary to
14 determine the eligibility of nonprofit cultural organizations.

15 Section 2. Cultural contributions tax credit.--

16 (1) AUTHORIZATION TO GRANT CULTURAL CONTRIBUTIONS TAX
17 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS.--

18 (a) There shall be allowed a credit of 50 percent of
19 monetary contribution made to the Division of Cultural Affairs
20 of the Department of State for deposit into the Fine Arts
21 Trust Fund against any tax due for a taxable year under
22 chapter 220, Florida Statutes.

23 (b) A proposal for the granting of the tax credit
24 requires the prior approval of the Division of Cultural
25 Affairs of the Department of State.

26 (c) If the credit granted under this section is not
27 fully used in any one year, the unused amount may not be
28 carried forward. A taxpayer may not convey, assign, or
29 transfer the credit authorized by this section to another
30 entity unless all of the assets of the taxpayer are conveyed,
31 assigned, or transferred in the same transaction.

1 (2) APPLICATION REQUIREMENTS.--

2 (a) Any business wishing to participate in this
3 program must submit an application for the tax credit to the
4 Division of Cultural Affairs of the Department of State on
5 forms established by rule of the division. Applications shall
6 be accepted on a first-come, first-served basis beginning July
7 1, 2005.

8 (b) The business firm must submit a separate
9 application for tax credit for each individual contribution
10 that it makes to the Cultural Institutions Trust Fund.

11 (3) ADMINISTRATION.--

12 (a) The Division of Cultural Affairs of the Department
13 of State may adopt rules under sections 120.536(1) and 120.54,
14 Florida Statutes, to administer this section.

15 (b) The granting of tax credit by the Division of
16 Cultural Affairs of the Department of State must be in writing
17 and must state the maximum credit allowable to the business
18 firm. A copy of the granting of tax credit must be transmitted
19 to the executive director of the Department of Revenue, who
20 shall apply such credit to the tax liability of the business
21 firm.

22 (c) The Department of Revenue may adopt rules under
23 sections 120.536(1) and 120.54, Florida Statutes, to
24 administer this section.

25 Section 3. It is the intent of the Legislature that
26 credits against the corporate income tax granted under section
27 1 or section 2 be applied subsequent to those enumerated in
28 section 220.187, Florida Statutes.

29 Section 4. In computing adjusted federal income under
30 section 220.13, Florida Statutes, there shall be added to such
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1 taxable income the amount taken as a credit for the taxable
2 year under sections 1 and 2.

3 Section 5. The total amount of tax credit which may be
4 granted for all programs approved under sections 1 and 2 is \$5
5 million annually.

6 Section 6. Sections 1-5 expire June 30, 2006.

7 Section 7. This act shall take effect July 1, 2005.

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SENATE SUMMARY

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Provides a credit against the corporate income tax for
contributions to nonprofit cultural organizations.
12 Provides a credit against the tax for donations to the
Fine Arts Trust Fund. Defines terms. Provides conditions
13 to taking such credits. Provides for the order in which
credits against the tax may be applied. Provides for
14 expiration of the act. Provides for rulemaking. (See bill
for details.)

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