

AN ACT relating to the Endow Kentucky tax credit.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 141.438 is amended to read as follows:

(1) *As used in this section:*

(a) "Affiliate community foundation" has the same meaning as in KRS 147A.310;

(b) "County-specific component fund" has the same meaning as in KRS 147A.310;

(c) "Endowment gift" has the same meaning as in KRS 147A.310; and

(d) "Qualified community foundation" has the same meaning as in KRS 147A.310.

(2) For taxable years beginning on or after January 1, 2011, there is hereby established the Endow Kentucky tax credit.

(3)~~(2)~~ A taxpayer providing an endowment gift to a permanent endowment fund of a qualified community foundation,~~or~~ county-specific component fund, or affiliate community foundation, which has been certified under KRS 147A.325, and meeting the requirements of subsection (8)~~(7)~~ of this section, may claim a credit against the taxes imposed by KRS 141.020 or 141.040 and 141.0401. The ordering of the credit shall be as provided in KRS 141.0205.

(4)~~(3)~~ The credit shall be equal to twenty percent (20%) of the value of the endowment gift provided by the taxpayer, not to exceed ten thousand dollars (\$10,000).

(5)~~(4)~~ The credit shall be nonrefundable, but any amount of credit that a taxpayer is not able to utilize during a particular taxable year may be carried forward for use in a subsequent taxable year, for a period not to exceed five (5) years.

(6)~~(5)~~ No tax credit claimed under this section may be sold or transferred. If the taxpayer is a pass-through entity not subject to tax under KRS 141.040, the amount

of approved credit shall be applied against the tax imposed by KRS 141.0401 at the entity level, and shall also be distributed to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of the income of the pass-through entity.

~~(7)~~~~(6)~~ The total amount of tax credit that may be awarded under this section shall be limited to:

- (a) Five hundred thousand dollars (\$500,000) in each fiscal year beginning on or before July 1, 2015; and
- (b) One million dollars (\$1,000,000) in each fiscal year beginning on or after July 1, 2016.

~~(8)~~~~(7)~~ A taxpayer pursuing a tax credit under this section shall:

- (a) File an application for preliminary authorization of the tax credit with the department;
- (b) After receiving preliminary authorization from the department, provide ~~the~~~~an~~ endowment gift to ~~the~~~~a~~ qualified community foundation, county-specific component fund, or affiliate community foundation, which has been certified under KRS 147A.325 ***and which was identified on the application,*** within ***forty-five (45)***~~thirty (30)~~ days of the date of the notice of ***preliminary*** authorization ~~for the tax credit from the department~~; and
- (c) Within ***thirty (30)***~~ten (10)~~ days of making the ***endowment*** gift, report to the department proof of the endowment gift.

- ~~(9)~~~~(8)~~ (a) The department shall:
- 1. Create the application required to be filed by the taxpayer seeking preliminary ***authorization***~~approval~~ for the tax credit; and
 - 2. Publish on its Web site the amount of total credit allocated to date, the date the last processed application for preliminary ***authorization***~~approval~~ was received, and the remaining credit

available.

- (b) 1. Upon receipt of an application for preliminary authorization~~[approval]~~ submitted under subsection (8)~~[(7)]~~ of this section, the department shall review the application and, if approved, the department shall:
- a.** Issue a notice of preliminary authorization~~[approval]~~ to the requesting taxpayer; **and**
- b.** Notwithstanding KRS 131.190, transmit a copy of that notice to the qualified community foundation or affiliate community foundation identified on the application.
2. The notice of preliminary authorization~~[approval]~~ shall include the amount of credit, **and** shall notify the taxpayer that the proposed endowment gift must be made within forty-five (45)~~[thirty (30)]~~ days of the date reflected on the notice~~[of authorization]~~, and that the taxpayer must notify the department that the endowment gift has been made, in the form and format determined by the department, within thirty (30)~~[ten (10)]~~ days of making the endowment gift.
3. Upon~~[preliminary]~~ approval of an application for preliminary authorization~~[credit]~~, the department shall reduce the outstanding available credit cap amount to reflect the preliminary authorized~~[approved]~~ credit.
- (c) Upon timely receipt of notification from a taxpayer preliminarily authorized~~[approved]~~ for a credit that the endowment gift~~[investment]~~ has been timely made, the department shall verify the information provided and, if the information is accurate, the department shall issue a final tax credit letter to the taxpayer. The notification from the taxpayer shall be executed by an officer of the qualified community foundation or affiliate community foundation receiving the endowment gift, or his or her designee, who shall

as part of the notification specifically identify the county or counties, or other particular geographic area, that the endowment gift is intended to impact.

- (d) If a taxpayer fails to make the required endowment gift~~[investment]~~ or provide proof of the endowment gift~~[investment]~~ to the department within the time frames established by this subsection and subsection ~~(8)~~~~(7)~~ of this section, the department shall void the preliminary authorization~~[approval]~~ and shall restore the allocated amounts to the tax credit cap.

(10) On or before December 1, 2017, and on or before every December 1 thereafter, the department shall report to the Endow Kentucky Commission the total number and gross amount of tax credits awarded during the fiscal year ending prior to the December reporting date, sorted into categories as follows:

- (a) The number and amount of credits awarded for endowment gifts made to each qualified community foundation or affiliate community foundation;
and
(b) The number and amount of credits awarded for endowment gifts intended to impact each various county or geographic area, as identified on the notification received by the department pursuant to subsection (9)(c) of this section.

➔Section 2. This Act shall take effect October 1, 2015, and shall apply to the award of tax credits pursuant to Section 1 of this Act in fiscal years beginning on or after July 1, 2016.