

House Bill 266 (AS PASSED HOUSE AND SENATE)

By: Representatives Sainz of the 180th, Ballard of the 147th, Bonner of the 73rd, Clark of the 100th, Petrea of the 166th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
2 income taxes, so as to exempt from taxation certain income received as retirement benefits
3 derived from service in the armed forces of the United States or the reserve components
4 thereof; to revise a tax credit for contributions to law enforcement foundations; to expand the
5 number of foundations that qualify; to expand the qualified expenditures; to increase the
6 annual amount of contributions allowed; to reduce a cap for certain entities; to extend the
7 sunset date; to remove the carry forward authorization; to provide for procedures; to provide
8 for related matters; to provide for effective dates and applicability; to repeal conflicting laws;
9 and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes,
13 is amended in Code Section 48-7-27, relating to computation of taxable net income, by
14 revising paragraph (5.1) of subsection (a) as follows:

15 "(5.1)(A) ~~Up to \$17,500.00 of income~~ Income received by an individual who is less than
16 ~~62~~ 65 years of age paid to such individual as retirement benefits from military service in

the armed forces of the United States or the reserve components thereof ~~and an additional amount of up to \$17,500.00 of such income, provided that he or she has Georgia earned income otherwise included in his or her Georgia taxable net income in an amount that exceeds \$17,500.00~~ in an amount that shall not exceed \$65,000.00.

(B) In the case of a married couple filing jointly, each spouse who is otherwise qualified for an exclusion allowed by this paragraph shall be individually entitled to exclude retirement income received by that spouse up to the exclusion amount.

(C) The exclusions provided for in this paragraph shall not apply to or affect and shall be in addition to those adjustments to net income provided for under any other paragraph of this subsection; provided, however, that no individual shall be allowed an exclusion provided for in this paragraph in addition to any exclusion provided for in paragraph (5) of this subsection;"

SECTION 2.

Said chapter is further amended in Code Section 48-7-29.25, relating to income tax credits for contributions to law enforcement foundations, as follows:

"48-7-29.25.

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

(1) 'Law enforcement foundation' means any domestic nonprofit corporation with the sole function of supporting ~~one local law enforcement unit~~ through a formal relationship recognized by such local law enforcement unit with one or more local law enforcement units or which provides support to law enforcement state wide and which maintains nonprofit status under Section 501(c)(3) of the Internal Revenue Code and tax exempt status under Code Section 48-7-25.

(2) 'Local law enforcement unit' means any agency, office, or department of a county, municipality, or consolidated government of this state whose primary functions include the enforcement of criminal or traffic laws, preservation of public order, protection of life

and property, or the prevention, detection, or investigation of crime. Such term shall include any sheriff's office in this state. Such term shall not include any agency, office, or department conducting similar functions for any court, state board, state authority, state law enforcement division or department, railroad police, or any unit appointed under the authority of Chapter 9 of Title 35 of the Official Code of Georgia Annotated.

(3) 'Qualified contributions' means the preapproved contribution of funds by a taxpayer to a qualified law enforcement foundation under the terms and conditions of this Code section.

(4) 'Qualified expenditures' means expenditures made by a qualified law enforcement foundation:

(A)(i) For salary supplements paid no more than twice annually or training provided directly to law enforcement officers and other employees employed by ~~the~~ any local law enforcement unit affiliated with such qualified law enforcement foundation; ~~or~~

(ii) For the purchase, lease, maintenance, or improvement of equipment to be used by such officers or employees;

(iii) For the purchase or lease of supplies and materials for technology updates, including computer hardware and software; or

(iv) For the lease of facilities or purchase of goods or services to be used for the promotion of community engagement; or

(B) To cover any costs incurred by ~~the~~ any local law enforcement unit affiliated with such law enforcement foundation for the operation of an emergency response team that combines law enforcement officers and behavioral health specialists, provided that such costs shall not include salaries or other regular compensation.

(5) 'Qualified law enforcement foundation' means any law enforcement foundation that: ~~has been designated as the sole local law enforcement foundation for a single local law enforcement unit and has been certified~~

69 (A) Has been certified and listed by the commissioner pursuant to subsection (d) of this
70 Code section; and

71 (B)(i) Has been designated as the law enforcement foundation for a local law
72 enforcement unit or combination of neighboring local law enforcement units; or

73 (ii) Is a law enforcement foundation which provides support to law enforcement state
74 wide.

75 (b)(1) The aggregate amount of tax credits allowed under this Code section shall not
76 exceed \$75 million per calendar year. Each qualified law enforcement foundation shall
77 be limited to accepting \$3 million per year of contributions made under this Code section.

78 (2) Subject to the aggregate limit provided in paragraph (1) of this subsection for taxable
79 years beginning on or after January 1, 2023, and ending on or before
80 December 31, ~~2027~~ 2031, each taxpayer shall be allowed a credit against the tax imposed
81 by this chapter for qualified contributions made by the taxpayer as follows:

82 (A) In the case of a single individual or a head of household, the actual amount of
83 qualified contributions made or \$5,000.00 per tax year, whichever is less;

84 (B) In the case of a married couple filing a joint return, the actual amount of qualified
85 contributions made or \$10,000.00 per tax year, whichever is less;

86 (C) Anything to the contrary contained in subparagraph (A) or (B) of this paragraph
87 notwithstanding, in the case of an individual taxpayer who is a member of a limited
88 liability company duly formed under state law, a shareholder of a Subchapter 'S'
89 corporation, or a partner in a partnership, the actual amount of qualified contributions
90 it made or \$10,000.00 per tax year, whichever is less; provided, however, that tax
91 credits pursuant to this paragraph shall only be allowed for the portion of the income
92 on which such tax was actually paid by such member of the limited liability company,
93 shareholder of a Subchapter 'S' corporation, or partner in a partnership; or

94 (D) A corporation or other entity not provided for in subparagraphs (A) through (C)
95 of this paragraph shall be allowed a credit against the tax imposed by this chapter, for

qualified contributions in an amount not to exceed the actual amount of qualified contributions made or ~~75~~ 75 percent of such corporation's or other entity's income tax liability, whichever is less.

(3) Nothing in this Code section shall be construed to limit the ability of a local law enforcement unit to receive gifts, grants, and other benefits from any source allowed by law; provided, however, that no local law enforcement unit shall, under this Code section, accept or receive more than \$3 million in contributions in any calendar year.

(c) The commissioner shall establish a page on the department's public website for the purpose of implementing this Code section. Such page shall contain, at a minimum:

(1) The application and requirements to be certified as a qualified law enforcement foundation;

(2) The current list of all qualified law enforcement foundations and their affiliate law enforcement units;

(3) The total amount of tax credits remaining and available for preapproval for each year;

(4) A web based method for taxpayers seeking the preapproval status for contributions; and

(5) The information received by the department from each qualified law enforcement foundation pursuant to paragraph (1) of subsection (g) except for division (g)(1)(B)(iv) of this Code section.

(d) Any valid law enforcement foundation as a qualified law enforcement foundation shall be certified by the commissioner following the commissioner's receipt of a properly completed application and after the commissioner has confirmed that a ~~single~~ local law enforcement unit has validly designated the applicant as its ~~sole~~ law enforcement foundation; provided, however, that such designation shall not be required for an applicant that provides support to law enforcement state wide. Such application shall be prescribed by the commissioner and shall include an agreement by the applicant to fully comply with the terms and conditions of this Code section.

(e)(1) Prior to making a contribution to any qualified law enforcement foundation, the taxpayer shall request preapproval by electronically ~~notify~~ notifying the department, in a manner specified by the commissioner, of the total amount of contribution that such taxpayer intends to make to such qualified law enforcement foundation.

(2) Within 30 days after receiving a request for preapproval of contributions, the commissioner shall preapprove, deny, or prorate requested amounts on a first come, first served basis and shall provide notice to such taxpayer and the qualified law enforcement foundation of such preapproval, denial, or proration. Such notices shall not require any signed release or notarized approval by the taxpayer. The preapproval of contributions by the commissioner shall be based ~~solely~~ on the availability of tax credits subject to the limits established under paragraph (1) of subsection (b) of this Code section.

(3) Within 60 days after receiving the preapproval notice issued by the commissioner pursuant to paragraph (2) of this subsection, the taxpayer shall contribute the preapproved amount to the qualified law enforcement foundation or such preapproved contribution amount shall expire. The commissioner shall not include such expired amounts in determining the remaining ~~amount~~ amounts available under the ~~aggregate limit~~ limits provided in paragraph (1) of subsection (b) of this Code section for the respective calendar year.

(f)(1) Each qualified law enforcement foundation shall issue to each contributor making a contribution pursuant to this Code section a letter of confirmation of contribution, which shall include the taxpayer's name, address, tax identification number, the amount of the qualified contribution, the date of the qualified contribution, and the total amount of the credit allowed to the taxpayer.

(2) In order for a taxpayer to claim the tax credit allowed under this Code section, all such applicable letters as provided for in paragraph (1) of this subsection shall be attached to the taxpayer's tax return. When the taxpayer files an electronic return such confirmation shall only be required to be electronically attached to the return if the

Internal Revenue Service allows such attachments to be affixed and transmitted to the department. In any such event, the taxpayer shall maintain such confirmation and such confirmation shall only be made available to the commissioner upon request.

(3) The commissioner shall allow tax credits for any preapproved contributions made to a ~~local~~ qualified law enforcement foundation at the time the contributions were made if such foundation was a qualified law enforcement foundation at the time of the commissioner's preapproval of the contributions and the taxpayer has otherwise complied with this Code section.

(4)(A) For the period beginning on July 1 and ending on December 31 of each year, to the extent that the aggregate amount of tax credits authorized by subsection (b) of this Code section has not been reached, the commissioner shall preapprove, deny, or prorate additional requested amounts on a first come, first served basis and shall provide notice to such taxpayer and the qualified law enforcement foundation of such preapproval, denial, or proration.

(B) A taxpayer that is preapproved for the tax credit allowed pursuant to this Code section during the period provided for in subparagraph (A) of this paragraph shall only be allowed such credit in an amount that shall not exceed 95 percent of the amount otherwise allowed pursuant to this Code section.

(g)(1) Each qualified law enforcement foundation shall annually submit to the department:

(A) A complete copy of its IRS Form 990 and other applicable attachments, or for any qualified law enforcement foundation that is not required by federal law to file an IRS Form 990, ~~such foundation shall submit to the commissioner~~ equivalent information on a form prescribed by the commissioner; and

(B) A report detailing the contributions received during the calendar year pursuant to this Code section on a date determined by, and on a form provided by, the commissioner which shall include:

(i) The total number and dollar value of individual contributions and tax credits approved. Individual contributions shall include contributions made by those filing income tax returns as a single individual or head of household and those filing joint returns;

(ii) The total number and dollar value of corporate contributions and tax credits approved;

(iii) The total number and dollar value of all qualified expenditures made; and

(iv) A list of contributors, including the dollar value of each contribution and the dollar value of each approved tax credit.

(2) Except for the information published in accordance with paragraph (c) or (h) of this Code section, all information or reports relative to this Code section that were provided by qualified law enforcement foundations to the department shall be confidential taxpayer information, governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether such information relates to the contributor or the qualified law enforcement foundation.

(h) Each qualified law enforcement foundation shall publish on its public website a copy of its affiliated local law enforcement unit's prior year's annual budget containing the total amount of funds received from its local governing body. If a qualified law enforcement foundation does not maintain a public website, such information shall be otherwise made available by the qualified law enforcement foundation to the public upon request.

(i)(1) A taxpayer shall not be allowed to designate or direct the taxpayer's qualified contributions to a qualified law enforcement foundation pursuant to this Code section to any particular purpose or for the direct benefit of any particular individual.

(2) A taxpayer that operates, owns, is affiliated with, or is a subsidiary of an association, organization, or other entity that contracts directly with a qualified law enforcement foundation or ~~the~~ any local law enforcement unit that is affiliated with a qualified law enforcement foundation shall not be eligible for tax credits allowed under this Code section for contributions made to such qualified law enforcement foundation.

(3) In soliciting contributions, no person shall represent or direct that, in exchange for making qualified contributions to any qualified law enforcement foundation, a taxpayer shall receive any direct or particular benefit. The status as a qualified law enforcement foundation shall be revoked for any law enforcement foundation determined to be in violation of this paragraph and shall not be renewed for at least two years.

(j)(1) Qualified contributions shall only be used for qualified expenditures. Each qualified law enforcement foundation shall maintain accurate and current records of all expenditures of qualified contributions and provide such records to the commissioner upon his or her request.

(2) A qualified law enforcement foundation that fails to comply with any of the requirements under this Code section shall be given written notice by the department of such failure to comply by certified mail and shall have 90 days from the receipt of such notice to correct all deficiencies.

(3) Upon failure of a qualified law enforcement foundation to correct all deficiencies within 90 days pursuant to the requirements of paragraph (2) of this subsection, the department shall revoke the law enforcement foundation's status as a qualified law enforcement foundation and such entity shall be immediately removed from the department's list of qualified law enforcement foundations. All applications for preapproval of tax credits for contributions to such law enforcement foundation under this Code section made on or after the date of such removal shall be rejected.

(4) Each law enforcement foundation that has had its status revoked and has been delisted pursuant to this Code section; shall immediately cease all expenditures of funds received relative to this Code section; and shall transfer all of such funds that are not yet expended; to a properly operating qualified law enforcement foundation within 30 calendar days of its removal from the department's list of qualified law enforcement foundations.

230 (k)(1) No credit shall be allowed under this Code section to a taxpayer for any amount
231 of qualified contributions that were utilized as deductions or exemptions from taxable
232 income.

233 (2) In no event shall the total amount of the tax credit under this Code section for a
234 taxable year exceed the taxpayer's income tax liability. ~~Any~~ No unused tax credit shall
235 be allowed the taxpayer against ~~the~~ succeeding ~~three~~ years' tax liability. No such credit
236 shall be allowed the taxpayer against prior years' tax liability.

237 (l) The commissioner shall promulgate rules and regulations necessary to implement and
238 administer the provisions of this Code section."

239 **SECTION 3.**

240 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
241 July 1, 2025, and shall be applicable to all taxable years beginning on or after January 1,
242 2026.

243 (b) Section 1 of this Act shall become effective on January 1, 2027, and shall be applicable
244 to all taxable years beginning on or after January 1, 2027.

245 **SECTION 4.**

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