

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2676

By: Calvey

AS INTRODUCED

An Act relating to revenue and taxation; providing income tax credit for certain donations to school tuition organizations; defining term; specifying amount of credit; imposing limitations on total credit amounts; prescribing procedures; authorizing carryover; providing credit in lieu of certain deduction; imposing conditions with respect to scholarships; defining terms; imposing conditions upon school tuition organizations; requiring certain reports; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.201 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section "taxpayer" means a legal entity other than a natural person and shall include, but not be limited to corporations, trusts, estates and any other legal entity, other than a natural person having an income tax liability pursuant to Section 2355 of Title 68 of the Oklahoma Statutes.

B. For taxable years beginning after December 31, 2002, and subject to the limitation imposed pursuant to subsection C of this section, there shall be allowed as a credit against the taxes imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes one hundred percent (100%) of the amount of voluntary cash contributions made by a taxpayer during the taxable year to a school tuition organization.

C. The total amount of income tax credits which may be claimed as otherwise authorized by this section for a fiscal year shall be equal to:

1. Two Million Dollars (\$2,000,000.00) for the fiscal year ending June 30, 2003;
2. Four Million Dollars (\$4,000,000.00) for the fiscal year ending June 30, 2004;
3. Six Million Dollars (\$6,000,000.00) for the fiscal year ending June 30, 2005;
4. Eight Million Dollars (\$8,000,000.00) for the fiscal year ending June 30, 2006; and
5. Ten Million Dollars (\$10,000,000.00) for the fiscal year ending June 30, 2007.

For any taxable year during which claims are filed for the credit authorized by this section, the Oklahoma Tax Commission shall authorize the credit, if all other conditions for the credit have been met, in the order in which the claim for the credit is received.

D. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under Title 68 of the Oklahoma Statutes forward for not more than five (5) consecutive taxable years.

E. The credit allowed by this section is in lieu of any deduction pursuant to Section 170 of the Internal Revenue Code and taken for state tax purposes.

F. The tax credit authorized by this section is not allowed if the taxpayer designates the taxpayer's donation to the school tuition organization for the direct benefit of any dependent of the taxpayer.

G. For purposes of this section:

1. "Handicapped student" means a student who has any of the following conditions:

- a. hearing impairment,
- b. visual impairment,
- c. preschool moderate delay,
- d. preschool severe delay, or
- e. preschool speech or language delay;

2. "Qualified school" means a nongovernmental primary school, secondary school or a preschool for handicapped students, which is located in this state that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 2001; and

3. "School tuition organization" means a charitable organization in this state that is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that allocates at least ninety-five percent (95%) of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice. In addition, to qualify as a school tuition organization the charitable organization shall provide educational scholarships or tuition grants to students without limiting availability to only students of one school.

H. In order to claim the credit authorized by this section, the school tuition organization to which the donation is made:

1. Must provide at least twenty-five percent (25%) of all scholarships for each school year to or for the benefit of students enrolled in a governmental primary or secondary school;

2. Must not provide any scholarship in an amount which is in excess of the lower amount of:

- a. eighty percent (80%) of the tuition at a qualified school, or

- b. Two Thousand Dollars (\$2,000.00) per student per year which amount shall be adjusted for any increase in the Consumer Price Index for All Urban Consumers (CPI-U); and

3. Must provide at least sixty percent (60%) of the total amount of scholarship funds under its control to students who qualify for free or reduced-cost school lunches as provided by law.

I. Each school tuition organization shall report, on a form prescribed for this purpose by the Oklahoma Tax Commission:

1. The total amount of donations received each year;
2. The total amount of scholarships granted each year;
3. The grade level of each student to whom or for whose benefit a scholarship is granted;
4. The name of the school attended by each student to whom or for whose benefit a scholarship is granted;
5. The total tuition amount for each such student; and
6. Such other information as the Tax Commission may require.

SECTION 2. This act shall become effective January 1, 2003.

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