

§37 Tax credit for contributions to educational institutions

§37. Tax credit for contributions to educational institutions

A. The intent of this Section is to provide an incentive to corporations, persons, estates, and trusts to contribute or donate, or sell below cost tangible movable property to public educational institutions for purposes of research, research training, or direct education of students in the state. Any corporation, person, estate, and trust contributing, donating, or selling below cost tangible movable property to educational institutions as specified herein shall be allowed a credit against the tax liability due under the income tax as determined pursuant to Subsection C of this Section.

B. For purposes of this Section the following words and phrases shall have the following meanings:

(1) "Corporation" means any business entity authorized to do business in the state of Louisiana and subject to the state corporate income tax.

(2) "Cost". In the case of a donation or sale below cost by a wholesale or retail business, cost shall mean the amount actually paid by the wholesaler or retailer to the supplier for the machinery or equipment. In the case of a donation or sale below cost by a manufacturer of machinery or equipment, cost shall mean the enhanced value of the materials used to produce the machinery or equipment, which shall be deemed to be the lowest price at which the manufacturer sells the machinery or equipment.

(3) "Educational institution" shall include any public elementary and secondary, vocational-technical, or higher education facility, private, or parochial institutions, community colleges, special schools, museums, or any public library in the state of Louisiana.

(4) "New" means the machinery and equipment is state of the art machinery and equipment which:

(a) Has never been used except for normal testing by the manufacturer to insure that the machinery or equipment is of a proper quality and in good working order, or

(b) Has been used by the retailer or wholesaler solely for the purpose of demonstrating the product to customers for sale.

(5) "Persons, estates, and trusts" shall be as defined by R.S. 47:31.

(6) "State of the art machinery and equipment" means machinery and equipment which is of the same type, design, and capability as like machinery and equipment which is currently sold or manufactured by the donor for sale to customers.

(7) "Tangible movable property" shall mean property of a sophisticated and technological nature including any computer or data processing equipment, either hardware, software, or

both, which is capable of being used for purposes of research, research training, or direct education of students.

NOTE: Subsection C eff. until June 30, 2018. See Acts 2015, No. 125, §8.

C. There shall be allowed a credit against the tax liability due under the income tax for donations, contributions, or sales below cost of tangible movable property made to educational institutions in the state of Louisiana. The credit allowed by this Section shall be computed at the rate of twenty-nine percent of such property's value, as defined herein, or, in the case of a sale below cost, twenty-nine percent of the difference between the price received for the tangible movable property by the taxpayer and the value of the property as defined herein. The credit shall be limited to the total of the tax liability for the taxable year for which it is being claimed and shall be in lieu of the deductions from gross income provided for in R.S. 47:57. The credit shall not be allowed if the taxpayer arbitrarily, capriciously, or unreasonably discriminates against any person because of race, religion, ideas, beliefs, or affiliations.

NOTE: Subsection C as enacted by Acts 2015, No. 125, §§5, 8, eff. July 1, 2018.

C. There shall be allowed a credit against the tax liability due under the income tax for donations, contributions, or sales below cost of tangible movable property made to educational institutions in the state of Louisiana. The credit allowed by this Section shall be computed at the rate of forty percent of such property's value, as defined herein, or, in the case of a sale below cost, forty percent of the difference between the price received for the tangible movable property by the taxpayer and the value of the property as defined herein. The credit shall be limited to the total of the tax liability for the taxable year for which it is being claimed and shall be in lieu of the deductions from gross income provided for in R.S. 47:57. The credit shall not be allowed if the taxpayer arbitrarily, capriciously, or unreasonably discriminates against any person because of race, religion, ideas, beliefs, or affiliations.

D.(1) Any donations, contributions, or sales below cost of tangible movable property, to an educational institution will not qualify for this credit unless approved and accepted by the immediate board of jurisdiction charged with supervision and management of the educational institution. Prior to any donation, contribution, or purchase below cost, of such property the board of jurisdiction over the educational institution shall certify in writing that property to be donated, contributed, or purchased shall be used only in research, research training, or direct education of students.

(2) The value of the credit against any income tax due shall be based upon the donor's or seller's actual cost of new items of such property and not on retail value and upon appraised value of used items of such property. When new property is donated, contributed, or sold as provided herein, the donor or seller shall furnish to the board of jurisdiction an invoice showing the donor's or seller's actual purchase price. When used property is donated, contributed, or sold below cost, an appraisal shall be obtained by the institution accepting

the donation or contribution or purchasing the used property, which shall furnish to the donor or seller a certification of such donation, contribution, or sale below cost which shall include the date and the value of the donation or contribution or property sold. Used property sold below cost shall mean a sale below the appraised value. The donor shall attach the certification to the income tax return filed with the Department of Revenue.

E.(1) Any corporation, person, estate, or trust contributing, donating, or selling for less than cost any tangible movable property to an educational institution shall enter into an orientation agreement with the educational institution receiving said contribution, donation, or purchase. Such orientation must be provided at no cost to said institution and shall be provided at a location as determined pursuant to said agreement. Orientation shall occur within two weeks after installation of such property.

(2) If requested by the donee or purchaser, any corporation, person, estate, or trust contributing, donating, or selling any tangible movable property to an educational institution shall enter into a minimum three months maintenance/service agreement with the educational institution receiving said contribution or said donation in order to receive tax credit provided herein.

(3) Any software/courseware donated under the provisions of this Section shall be compatible with the existing hardware of the educational institution.

F. The secretary of the Department of Revenue shall promulgate such rules and regulations as may be deemed necessary to carry out the purposes of this Section.

G. Any state educational institution receiving any donation or contribution or purchasing any property below cost under this Section shall report to the Joint Legislative Committee on the Budget with respect to any tangible movable property donated, contributed, or property purchased below cost, information concerning the type and condition of property; the value of the property; the amount of the tax credit; and any other information which may be requested by the committee.

H. The provisions of this Section shall be effective for taxable periods beginning after December 31, 1985.

Added by Acts 1983, No. 667, §1, eff. Jan. 1, 1984. Acts 1985, No. 702, §1; Acts 1997, No. 658, §2; Acts 2015, No. 125, §2, eff. July 1, 2015; Acts 2015, No. 125, §5, eff. July 1, 2018.

NOTE: See Acts 2015, No. 125, §7, regarding applicability.

NOTE: See Acts 2016, 1st Ex. Sess., No. 29, §2, regarding effectiveness.