

LC00774

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2004**

**A N A C T**

**RELATING TO TAXATION**

Introduced By: Senators Ruggerio, Badeau, McCaffrey, Algieri, and DaPonte

Date Introduced: February 05, 2004

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 44-30 of the General Laws entitled "Personal Income Tax" is  
2 hereby amended by adding thereto the following sections:

3 **44-30-99. Tax credit for contributions to a scholarship organization.** – (a) In order to  
4 enhance the educational opportunities available to all students in this state, a tax credit shall be  
5 allowed, to be computed as provided in this chapter, against taxes otherwise due under provisions  
6 of chapter 30 of this title in the amount of a voluntary cash contribution made by a taxpayer  
7 during the taxable year to a scholarship organization, but not exceeding:

8 (1) Two hundred dollars (\$200) in any taxable year for a single individual or head of  
9 household.

10 (2) Two hundred fifty dollars (\$250) in any taxable year for a married couple filing a  
11 joint return. A husband and wife who file separate returns for a taxable year in which they could  
12 have filed a joint return may each claim only one-half (1/2) of the tax credit that would have been  
13 allowed for a joint return.

14 (b) If the allowable tax credit exceeds the taxes otherwise due under this title on the  
15 claimants income, or if there are no taxes due under this title, the taxpayer may carry the amount  
16 of the claim not used to offset the taxes under this title forward for not more than five (5)  
17 consecutive taxable years' income tax liability.

18 (c) A donation to a scholarship organization, for which the donor receives a tax credit  
19 under this provision, may not be designated to any specific school or student by the donor.

1           (d) The credit allowed by this section is in lieu of any deduction pursuant to section 170  
2 of the internal revenue code and taken for state purposes.

3           **44-30-99.1. Definitions.** – The following words and phrases used in this chapter shall  
4 have the meanings given to them in this section unless the context clearly indicates otherwise:

5           (1) "Scholarship organization" means a charitable organization in this state that is exempt  
6 from federal taxation under section 501 (c)(3) of the internal revenue code, and that allocates at  
7 least ninety percent (90%) of its annual revenue through a scholarship program for tuition  
8 assistance grants to eligible students to allow them to attend any qualified school of their parents'  
9 choice represented by the scholarship organization.

10           (2) "Scholarship program" means a program to provide tuition assistance grants to  
11 eligible students to attend a nonpublic school located in this state. A scholarship program must  
12 include an application and review process for the purpose of making these grants only to eligible  
13 students. The award of scholarships to eligible students shall be made without limiting  
14 availability to only students of one school.

15           (3) "Qualified school" means a nonpublic elementary or secondary school that is located  
16 in this state and that satisfies the requirements prescribed by law for nonpublic schools in this  
17 state.

18           (4) "Eligible student" means a school-age student who is registered in a qualified school  
19 and is a member of a household with a total annual household income of not more than two  
20 hundred fifty percent (250%) of the federal poverty guidelines as published in the federal register  
21 by the United States department of health and human services.

22           (5) "School-age student" means a child at the earliest admission age to a qualified  
23 school's kindergarten program or, when no kindergarten program is provided, the school's earliest  
24 admission age for beginners, until the end of the school year, the student attains twenty-one (21)  
25 years of age or graduation from high school whichever occurs first.

26           (6) "Household" means one or more persons occupying a dwelling unit and living as a  
27 single nonprofit housekeeping unit. Household does not mean bona fide lessees, tenants, or  
28 roomers and borders on contract.

29           (7) "Household income" means all income received by all persons of a household in a  
30 calendar year while members of the household.

31           (8) "Income" means the sum of federal adjusted gross income as defined in the internal  
32 revenue code of the United States, 26 U.S.C. section 1 et seq., and all nontaxable income  
33 including, but not limited to, the amount of capital gains excluded from adjusted gross income,  
34 alimony, support money, nontaxable strike benefits, cash public assistance and relief (not

1 including relief granted under this chapter), the gross amount of any pension or annuity  
2 (including Railroad Retirement Act (see 45 U.S.C. section 231 et seq.) benefits, all payments  
3 received under the federal Social Security Act, 42 U.S.C. section 301 et seq., state unemployment  
4 insurance laws, and veterans' disability pensions (see 38 U.S.C. section 301 et seq.), nontaxable  
5 interest received from the federal government or any of its instrumentalities, workers'  
6 compensation, and the gross amount of "loss of time" insurance. It does not include gifts from  
7 nongovernmental sources, or surplus foods or other relief in kind supplied by a public or private  
8 agency.

9 SECTION 2. Title 44 of the General Laws entitled "Taxation" is hereby amended by  
10 adding thereto the following chapter:

11 CHAPTER 62

12 TAX CREDITS FOR CONTRIBUTIONS TO SCHOLARSHIP ORGANIZATIONS

13 **44-62-1. Tax credit for contributions to a scholarship organization.** – (a) In order to  
14 enhance the educational opportunities available to all students in this state, a business entity is  
15 allowed a tax credit, to be computed as provided in this chapter, equal to seventy-five percent  
16 (75%) of the total voluntary cash contribution made by the business entity against taxes otherwise  
17 due under provisions of chapters 11, 12, 13, 14, 15 or 17 of this title to a scholarship organization.  
18 This credit shall be applied in the taxable year in which the contribution is made upon the  
19 provision of proof by the business entity of the contribution. Such credit shall not exceed one  
20 hundred thousand dollars (\$100,000) annually per business entity.

21 (b) This credit shall equal ninety percent (90%) of the total voluntary contribution made  
22 by a business entity to a scholarship organization in the taxable year in which the contribution is  
23 made upon the written commitment of the business entity to provide the scholarship organization  
24 with the same amount of contribution for two (2) consecutive tax years. The business entity must  
25 provide in writing a commitment to this extended contribution to the scholarship organization and  
26 the division of taxation at the time of application.

27 (c) In the event a business entity's tax liability falls below the contribution amount in the  
28 second year of a two (2) year commitment, but the second year's contribution is eighty percent  
29 (80%) or greater than the first year's contribution, the business entity shall receive a credit for  
30 both the first and second year contributions equal to ninety percent (90%) of each year's  
31 contribution. If the amount of the second year contribution is less than eighty percent (80%) of  
32 the first year contribution, then the credit for both the first and second year contributions shall be  
33 equal to seventy-five percent (75%) of each year's contribution.

34 **44-62-2. Limitations.** – (a) Amount. The total aggregate amount of all tax credits

1 approved shall not exceed two million dollars (\$2,000,000) in a fiscal year.

2 (b) Activities. No tax credit shall be approved for activities that are a part of a business  
3 entity's normal course of business.

4 (c) Tax liability. A tax credit granted for any one taxable year may not exceed the tax  
5 liability of a business firm.

6 (d) Use. A tax credit not used in the taxable year the contribution was made may not be  
7 carried forward or carried back and is not refundable or transferable.

8 (e) Nontaxable income. A scholarship received by an eligible student shall not be  
9 considered to be taxable income.

10 (f) Designation. A donation to a scholarship organization, for which the donor receives a  
11 tax credit under this provision, may not be designated to any specific school or student by the  
12 donor.

13 **44-62-3. Lists.** – (a) The division of taxation shall annually publish a list of all  
14 scholarship organizations receiving contributions from business entities granted a tax credit under  
15 this chapter to the general assembly.

16 (b) The division of taxation shall annually publish a list of each scholarship organization  
17 qualified under this section by June 30 of each year.

18 (c) These lists shall also be posted and updated, as necessary, on the publicly accessible  
19 world wide web site of the division of taxation.

20 **44-62-4. Qualification of scholarship organization.** – (a) A scholarship organization  
21 must certify annually to the division of taxation that the organization is eligible to participate in  
22 the program in accordance with criteria as defined under subsections 44-62-6(g) and (h).

23 (b) The division of taxation shall notify the scholarship organization in writing that the  
24 organization meets the requirements of this article for that fiscal year no later than sixty (60) days  
25 after the organization has submitted the information required under section 44-62-4(a).

26 **44-62-5. Application for tax credit.** – (a) A business entity shall apply in writing to the  
27 division of taxation for a tax credit under section 44-62-1. A business entity shall be approved to  
28 receive a tax credit under this chapter if it meets the criteria as defined in section 44-62-6(a), the  
29 dollar amount of the applied for tax credit is no greater than one hundred thousand dollars  
30 (\$100,000) in any tax year, and the scholarship organization that receives the contribution has  
31 been qualified by the division of taxation under section 44-62-4(a).

32 (b) Tax credits under this article shall be made available by the division of taxation on a  
33 first-come-first-serve basis within the limitations established under section 44-62-2. The  
34 division of taxation shall notify the business entity in writing within thirty (30) days of the receipt

1 of application of the division's approval or rejection of the application.

2 (c) A contribution by a business entity to a scholarship organization shall be made no  
3 later than one hundred twenty (120) days following the approval of an application under section  
4 44-62-4(b).

5 **44-62-6. Definitions.** – The following words and phrases used in this chapter shall have  
6 the meanings given to them in this section unless the context clearly indicates otherwise:

7 (1) "Business entity" means an entity authorized to do business in this state and subject to  
8 taxes imposed under chapters 44-11, 44-12, 44-13, 44-14, 44-15 and 44-17 of the general laws.

9 (2) "Division of taxation" means the Rhode Island division of taxation.

10 (3) "Eligible student" means a school-age student who is registered in a qualified school  
11 and is a member of a household with an annual household income of not more than two hundred  
12 fifty percent (250%) of the federal poverty guidelines as published in the federal register by the  
13 United States department of health and human services.

14 (4) "Household" means one or more persons occupying a dwelling unit and living as a  
15 single nonprofit housekeeping unit. Household does not mean bona fide lessees, tenants, or  
16 roomers and borders on contract.

17 (5) "Household income" means all income received by all persons of a household in a  
18 calendar year while members of the household.

19 (6) "Income" means the sum of federal adjusted gross income as defined in the internal  
20 revenue code of the United States, 26 U.S.C. section 1 et seq., and all nontaxable income  
21 including, but not limited to, the amount of capital gains excluded from adjusted gross income,  
22 alimony, support money, nontaxable strike benefits, cash public assistance and relief (not  
23 including relief granted under this chapter), the gross amount of any pension or annuity  
24 (including Railroad Retirement Act (see 45 U.S.C. section 231 et seq.) benefits, all payments  
25 received under the federal Social Security Act, 42 U.S.C. section 301 et seq., state unemployment  
26 insurance laws, and veterans' disability pensions (see 38 U.S.C. section 301 et seq.), nontaxable  
27 interest received from the federal government or any of its instrumentalities, workers'  
28 compensation, and the gross amount of "loss of time" insurance. It does not include gifts from  
29 nongovernmental sources, or surplus foods or other relief in kind supplied by a public or private  
30 agency.

31 (7) "Scholarship organization" means a charitable organization in this state that is exempt  
32 from federal taxation under section 501 (c)(3) of the internal revenue code, and that allocates at  
33 least ninety percent (90%) of its annual revenue through a scholarship program for tuition  
34 assistance grants to eligible students to allow them to attend any qualified school of their parents'

1 choice represented by the scholarship organization.

2 (8) "Scholarship program" means a program to provide tuition assistance grants to  
3 eligible students to attend a nonpublic school located in this state. A scholarship program must  
4 include an application and review process for the purpose of making these grants only to eligible  
5 students. The award of scholarships to eligible students shall be made without limiting  
6 availability to only students of one school.

7 (9) "Qualified school" means a nonpublic elementary or secondary school that is located  
8 in this state and that satisfies the requirements prescribed by law for nonpublic schools in this  
9 state.

10 (10) "School-age student" means a child at the earliest admission age to a qualified  
11 school's kindergarten program or, when no kindergarten program is provided, the school's earliest  
12 admission age for beginners, until the end of the school year, the student attains twenty-one (21)  
13 years of age or graduation from high school whichever occurs first.

14 SECTION 3. This act shall take effect on January 1, 2005.

=====  
LC00774  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TAXATION

\*\*\*

- 1 This act would establish tax credits for contributions to scholarship organizations.
- 2 This act would take effect on January 1, 2005.

=====  
LC00774  
=====

