

NEIGHBORHOOD ASSISTANCE TAX CREDIT PROGRAM

CHAPTER 41

NEIGHBORHOOD ASSISTANCE TAX CREDIT PROGRAM

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- 22 VAC 40-41-10 Definitions.

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

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“*Audit*” means, any audit required under the federal Office of Management and Budget’s Circular A-133, or, if a Neighborhood Organization is not required to file an audit under Circular A-133, a detailed financial statement prepared by a certified public accountant.

“*Business firm*” means any corporation, partnership, electing small business (Subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in this Commonwealth subject to tax imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1.

“*Community services*” means any type of counseling and advice, emergency assistance, medical care, provision of basic necessities, or services designed to minimize the effects of poverty, furnished primarily to impoverished people.

“*Contracting Services*” means the provision, by a business firm licensed by the Commonwealth of Virginia as a contractor under Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, of labor or technical advice to aid in the development, construction, renovation, or repair of (i) homes of impoverished people or (ii) buildings used by neighborhood organizations.

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"*Education*" means any type of scholastic instruction or scholarship assistance to an individual who is impoverished.

"*Housing assistance*" means furnishing financial assistance, labor, material, or technical advice to aid the physical improvement of the homes of impoverished people.

"*Impoverished people*" means people in Virginia with incomes at or below 150% of the poverty guidelines as defined by the United States Office of Management and Budget as published in the Federal Register (62 FR 10856), and as updated and republished annually in the Federal Register.

"*Job training*" means any type of instruction to an individual who is impoverished that enables him to acquire vocational skills so that he can become employable or able to seek a higher grade of employment.

"*Neighborhood assistance*" means providing community services, education, housing assistance, or job training.

"*Neighborhood organization*" means any local, regional or statewide organization whose primary function is providing neighborhood assistance for impoverished people, and holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization

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is exempt from income taxation under the provisions of §§ 501 (c) (3) ~~and~~ or 501 (c) (4) of the Internal Revenue Code of 1986, as amended from time to time, or any organization defined as a community action agency in the Economic Opportunity Act of 1964 (42 U.S.C. § 2701 et seq.), or any housing authority as defined in § 36-3.

"Professional services" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and shall include, but shall not be limited to, the personal services rendered by medical doctors, dentists, architects, professional engineers, certified public accountants and attorneys-at-law.

22 VAC 40-41-20 Purpose; procedure for becoming Neighborhood Assistance project; termination of project status; appeal procedure.

- A. The Purpose of the Neighborhood Assistance Program is to encourage business firms and individuals to make donations to neighborhood organizations for the benefit of impoverished people.
- B. Neighborhood organizations wishing to become an approved Neighborhood Assistance Project must submit a proposal to the Commissioner of Social Services or his designee.

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This proposal must be on the form prescribed by the Commissioner or his designee and at a minimum contain:

1. A description of their eligibility as a neighborhood organization; the program to be conducted; the impoverished people to be assisted; the estimated amount that will be donated to the program; and, plans for implementing the program.
2. Proof of the neighborhood organization's current exemption from income taxation under the provisions of §§ 501(c)(3) or 501(c)(4) of the Internal Revenue Code, or the organization's eligibility as a community action agency as defined in the Economic Opportunity Act of 1964 (42 U.S.C. § 2701 et seq.), or housing authority as defined in § 36-3.
3. A copy of the neighborhood organization's most recent audit; a copy of the organizations most current federal form 990; and a copy of the annual report filed with the Department of Agriculture and Consumer Services' Division of Consumer Affairs.
4. A statement of objective and measurable outcomes that are expected to occur and the method the organization will use to evaluate the program's effectiveness.

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- C. The application period for neighborhood organizations to become approved Neighborhood Assistance Projects will start no later than March 1 of each year. All applications must be received by the Department of Social services no later than the first working day of May.

- D. Those organizations submitting all required information and reports, meeting the eligibility criteria of a neighborhood organization, and whose proposals are consistent with the Act, will be determined an eligible project for the Neighborhood Assistance Program. The ~~approval period~~ program year will run from July 1 through June 30 of the following year.

- E. The Commissioner or his designee may terminate a project's eligibility based on a finding of program abuse involving illegal activities, or fraudulent reporting on contributions.

- F. Any neighborhood organization that disagrees with the disposition of their applications, or their termination as a eligible project, may appeal to the Commissioner for a reconsideration. Such requests must be made within 30 days of the denial or

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termination. The Commissioner will act on the request and render a final decision within 30 day of the request for reconsideration.

22 VAC 40-41-30 Allocation of Tax Credits.

- A. The available tax credits will be allocated among all approved projects as follows:
 - 1. Any amounts legislatively set aside for special purposes will be allocated for these purposes.
 - 2. At least 10% of the available amount of tax credits each year shall be allocated to qualified programs proposed by neighborhood organizations not receiving allocations in the preceding year; however, if the amount of tax credits for qualified programs requested by such neighborhood organizations is less than ten percent of the available amount of tax credits, the unallocated portion of such ten percent shall be allocated to other eligible neighborhood organizations.
 - 3. Projects that had received a tax credit allocation within the last four years will be given an allocation based on the average amount of tax credits actually used

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in prior years. This amount may be reduced by a percentage or be capped in order to stay within the total available funding.

4. The remaining allocation will be distributed among projects which have not received an allocation within the last four years. This process may include a determination of the reasonableness of requests, caps, and percentage reductions in order to stay within the total available funding.
 5. Steps 3 and 4 may be used for any amount legislatively designated for specific types of projects. Alternate procedures may be developed to ensure equitable distribution of available tax credits.
- B. During the program year, neighborhood organizations may request additional allocations of tax credits. Requests will be evaluated on reasonableness and funds will be reallocated on a first come basis as they become available. Requests for increases to an organization's allocation received more than two weeks after the end of the program year will not be processed.

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- C. A neighborhood organization shall not assign or transfer an allocation of tax credits to another neighborhood organization without the approval of the Commissioner of Social Services or his designee.

22 VAC 40-41-40 Value of Donations.

- A. The Approved Neighborhood Organization is responsible for maintaining documentation acceptable to the Department of Social Services, establishing the date and value of all donations.
- B. The value of donations of cash, including stocks, bonds, or other negotiable items, merchandise, and real-estate is the value determined for federal tax purposes using IRS regulations (26 CFR 1 et seq, and as amended).
- C. The value assigned for donated rent/lease of property must be reasonable and can not exceed the prevailing square footage rental charge for comparable property.
- D. The value of professional and contracting services is determined as follows:

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1. When ~~an employer~~ a business donates professional or contracting services provided by employees, the value of the donation shall be equal to the salary that such employee was actually paid for the period of time that such employee rendered professional or contracting services to the approved program. Operating overhead and benefit costs are not included in determining the contribution.
2. When a sole proprietor ~~or~~ a partner in a partnership, or member of a limited liability company, renders professional or contracting services to a program, the value of the professional or contracting services shall not exceed the lesser of the reasonable cost for similar services from other providers, or the maximum amount set forth in §§63.1-325 and 63.1-325.1 of the Code of Virginia.
3. When a physician ~~or~~ , dentist, nurse practitioner, physician's assistant, optometrist, dental hygienist, or pharmacist, licensed pursuant to Title 54.1 of the Code of Virginia, provides health care services, the value of such services shall not exceed the lesser of the reasonable cost for similar services from other providers or the maximum amount set forth in §63.1-325 of the Code of Virginia.

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22 VAC 40-41-50 Donations by businesses, ~~physicians, and dentists~~ health care professionals.

- A. As provided by § 63.1-324 of the Code of Virginia, a business firm shall be eligible for a tax credit based on the value of the money, property, and professional services donated by the business firm during its taxable year to an approved neighborhood organization.
- B. No tax credit shall be granted to any business firm for donations to a neighborhood organization providing job training or education for individuals employed by the business firm.
- C. Physicians and , dentists, nurse practitioners, physician's assistants, optometrists, dental hygienists, and pharmacists, licensed pursuant to Title 54.1 of the Code of Virginia, who provide health care services, without charge, at a clinic which is an approved Neighborhood Organization, and is organized in whole or in part for the delivery of health care services without charge, shall be eligible for a tax credit pursuant based on the time spent in providing health care services at such clinic.

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- D. All donations must be made without any conditions or expectation of monetary benefit from the project. ~~Discounting of~~ Discounted property or professional services is not an allowable donation for the Neighborhood Assistance program.
- E. Granting of tax credits shall conform to the minimum and maximum amounts prescribed in §63.1-324 of the Code of Virginia.
- F. Credits granted to a partnership, electing small business (Subchapter S) corporation, or limited liability company shall be allocated to their individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.
- G. ~~The business firm and NAP~~ Neighborhood Assistance project and its donor, shall complete a certification on a form prescribed by the Department of Social Services and submit it to the Commissioner or his designee. The certification shall identify the date, type and value of the donation ~~and the business firm making the donation.~~
- H. All certifications must be submitted to the Commissioner or his designee within four years of the date of donation.

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- I. Upon receipt and approval of the certification, the Commissioner or his designee shall issue a tax credit certificate to the business.

22 VAC 40-41-55 Donations by Individuals

- A. As provided in §63.1-325.2 of the Code of Virginia, an individual shall be eligible for a tax credit for a cash donation to a Neighborhood Assistance project.
- B. Such donations are subject to the minimum and maximum amounts and other provisions set forth in §63.1-325.2 of the Code of Virginia.
- C. The Neighborhood Assistance project and the individual shall complete a certification on a form prescribed by the Department of Social Services and submit it to the Commissioner or his designee. The certification shall identify the date and amount of the donation.
- D. Upon receipt and approval of the certification, the Commissioner or his designee, shall issue a tax credit certificate to the individual.

22 VAC 40-41-60 Determining date of donation.

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- A. The date of donation for cash, including stocks, bonds, or other negotiable items, merchandise, and real-estate is the date used for federal tax purposes according to IRS regulations.

- B. The date of donation for professional services is the date the service is completed.

- C. The date of donation for donated rent/lease is the effective date of the lease.

I certify that this regulation is full, true, and correctly dated.

Ray C Goodwin, Acting Commissioner

Department of Social Services

Date: _____