

1 SENATE BILL 107

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

4 Stuart Ingle

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10 AN ACT

11 RELATING TO TAXATION; PROVIDING FOR AN INCOME TAX CREDIT FOR
12 CASH DONATIONS TO ENTITIES THAT OPERATE FACILITIES LICENSED BY
13 THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT AS COMMUNITY HOMES.

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. A new section of the Income Tax Act is enacted
17 to read:

18 "[NEW MATERIAL] COMMUNITY HOME DONATION TAX CREDIT.--

19 A. A taxpayer who files a New Mexico income tax
20 return and is not a dependent of another taxpayer is eligible
21 for a tax credit against the taxpayer's liability pursuant to
22 the Income Tax Act for a cash donation made by the taxpayer to
23 an entity that operates a licensed community home. The credit
24 provided pursuant to this section may be referred to as the
25 "community home donation tax credit".

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1 B. The community home donation tax credit shall not
2 exceed the lesser of:

3 (1) fifty percent of the total amount of cash
4 donations, as provided by Subsection A of this section, that
5 are made by the taxpayer during the taxable year; or

6 (2) two thousand five hundred dollars
7 (\$2,500).

8 C. A taxpayer may claim the community home donation
9 tax credit for the taxable year in which a cash donation to an
10 entity that operates a licensed community home is made. Claims
11 for the tax credit shall be considered in the order received by
12 the department.

13 D. Subject to the limitation in Subsection F of
14 this section, the department shall allow the community home
15 donation tax credit if the taxpayer submits:

16 (1) evidence satisfactory to the secretary
17 that the taxpayer made a cash donation to an entity that
18 operated a licensed community home during the taxable year for
19 which the tax credit is claimed;

20 (2) evidence satisfactory to the secretary
21 that on the date of the donation, the entity held an active,
22 valid community home license issued by the children, youth and
23 families department; and

24 (3) any other information that the department
25 may require, in the form it prescribes, to determine the amount

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1 of the tax credit due the taxpayer.

2 E. The department shall keep a record of the
3 amount, date and recipient of each cash donation for which a
4 community home donation tax credit is allowed.

5 F. The department shall not allow a community home
6 donation tax credit pursuant to this section if, on the date of
7 the department's receipt of the taxpayer's claim for credit,
8 the total amount of credits allowed for donations made to the
9 entity during the calendar year of the taxpayer's donation
10 exceeds the product of fifty dollars (\$50.00) multiplied by the
11 total number of residential care days attributable to the
12 entity during the same calendar year.

13 G. The community home donation tax credit may be
14 deducted only from the taxpayer's income tax liability. If the
15 tax credit exceeds the taxpayer's income tax liability, the
16 excess shall be refunded to the taxpayer.

17 H. Married individuals who file separate returns
18 for a taxable year in which they could have filed a joint
19 return may each claim one-half of the tax credit that would
20 have been allowed on a joint return.

21 I. A taxpayer may be allocated the right to claim a
22 community home donation tax credit in proportion to the
23 taxpayer's ownership interest if the taxpayer owns an interest
24 in a business entity that is taxed for federal income tax
25 purposes as a partnership and that business entity has met all

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1 of the requirements to be eligible for the tax credit. The
2 total tax credit claimed by all members of the business entity
3 shall not exceed the allowable tax credit pursuant to this
4 section.

5 J. For the purposes of this section:

6 (1) "licensed community home" means a facility
7 licensed as a community home by the children, youth and
8 families department; and

9 (2) "residential care day" means a twenty-
10 four-hour period during which residential care is provided to a
11 child; provided that if residential care is provided to more
12 than one child within that period, the number of residential
13 care days is equal to the number of children who are provided
14 residential care within that same period."

15 SECTION 2. APPLICABILITY.--The provisions of this act
16 apply to taxable years beginning on or after January 1, 2016.