Federal Income Tax Treatment of Charitable Contributions Entitling Donor to a State Tax Credit

Introduction

This paper summarizes the current federal income tax treatment of charitable contributions where the gift entitles the donor to a state tax credit. Such credits are very common and are used by the states to encourage private donations to a wide range of activities, including natural resource preservation through conservation easements,[1] private school tuition scholarship programs,[2] financial aid for college-bound children from low-income households,[3] shelters for victims of domestic violence,[4] and numerous other state-supported programs. Under these programs, taxpayers receive tax credits for donations to governments, government-created funds, and nonprofits. Appendix A provides a partial inventory of existing state charitable tax credits.

A central federal income tax question raised by these donations is whether the donor must reduce the amount of the charitable contribution deduction claimed on her federal income tax return by the value of state tax benefits generated by the gift. **Under current law, expressed through both court opinions and rulings from the Internal Revenue Service, the amount of the donor's charitable contribution deduction is *not* reduced by the value of state tax benefits**. In the analysis below, we refer to this feature of current law as the "Full Deduction Rule." The effect of the Full Deduction Rule is that a taxpayer can reduce her state tax liability by making a charitable contribution that is deductible on her federal income tax return.

In a tax system where both charitable contributions and state/local taxes are deductible, the ability to reduce state tax liabilities via charitable contributions confers no particular federal tax advantage. However, in a tax system where charitable contributions are deductible but state/local taxes are not, it may be possible for states to provide their residents a means of preserving the effects of a state/local tax deduction, at least in part, by granting a charitable tax credit for federally deductible gifts, including gifts to the state or one of its political subdivisions. Congress first introduced differential treatment of charitable contributions and state/local taxes in the Tax Reform of 1986, when it amended

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[1] See Jeffrey O. Sundberg, State Income Tax Credits for Conservation Easements: Do Additional Credits Create Additional Value?, Lincoln Institute of Land Policy (2011) (p. 26, Table 1, listing state tax credits as of 2011) (http://www.lincolninst.edu/publications/working-papers/state-income-tax-credits-conservation/easements).

[2] See Carl Davis, State Tax Subsidies for Private K-12 Education, Institute on Taxation and Economic Policy (October 2016) (https://itep.org/wp-content/uploads/k12taxsubsidies.pdf).

[3] http://www.treasurer.ca.gov/cefa/catc/index.asp (CA College Access Tax Credit).

[4] https://dss.mo.gov/dfas/taxcredit/dvtaxcredit.htm (MO Domestic Violence Shelter Tax Credit).

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the federal alternative minimum tax by disallowing the deduction for state/local taxes.[5] As a result, from 1987 onward, taxpayers subject to the federal AMT have found it advantageous to make charitable gifts generating state tax credits.[6] These gifts had the felicitous effect of increasing the taxpayer's (deductible) charitable contributions while simultaneously reducing her (non-deductible) state tax obligations. In light of recent federal legislation further limiting the deductibility of state and local taxes,[7] states may expand their use of charitable tax credits in this manner, focusing new attention on the legal underpinnings of the Full Deduction Rule.

The Full Deduction Rule has been applied to credits that completely offset the pre-tax cost of the contribution. In most cases, however, the state credits offset less than 100% of the cost. We believe that, at least in this latter and more typical set of cases, the Full Deduction Rule represents a correct and long-standing trans-substantive principle of federal tax law. According to judicial and administrative pronouncements issued over several decades, nonrefundable state tax credits are treated as a reduction or potential reduction of the credit recipient's state tax liability rather than as a receipt of money, property, contribution to capital, or other item of gross income. As discussed in greater detail below, the Full Deduction Rule is supported not only by decades of precedent but by a host of policy considerations. These considerations include federal respect for state initiatives and allocation of tax liabilities, and near-insuperable administrative burdens posed by alternative rules.

The combination of precedent and policy justifications suggests that the Full Deduction Rule should survive administrative and judicial challenge. We believe that changes to the Full Deduction Rule would require legislation. We also caution Congress that a legislative override of the Full Deduction Rule would raise significant administrability concerns and would implicate important federalism values. Congress should tread carefully if it seeks to alter the Full Deduction Rule by statute.

Background on the Charitable Contribution Deduction

Availability of Deduction. Section 170(a) of the federal Internal Revenue Code provides for a deduction for "charitable contributions" as defined in section 170(c). Deductible

[5] 26 U.S.C. 56(b)(1)(A)(ii) (enacted as part of the Tax Reform Act of 1986).

[6] See, e.g., Bryan Strike, Charitable Donation and State Tax Credit!, Kays Financial Advisory Corporation, Professional Wealth Management Services (September 20, 2016) (describing tax advantages for AMT taxpayers to make deductible gifts to Georgia's Student Scholarship Organizations, which entitle donors to 100% state tax credit); David Slade, 'Donation' Can Make You a Profit, The Post and Courier (July 12, 2014) (describing benefit to AMT taxpayers of making deductible gifts to South Carolina's Exceptional SC fund, which entitle donors to 100% state tax credit).

[7] P.L. 115-97, An act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.

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contributions include donations not only to familiar non-profit organizations such as those qualifying for tax-exempt status under section 501(c)(3) but also "a State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purpose."[8] Donations can be made in either cash or property.

Amount of Deduction. The amount of the deduction is generally the amount of cash or the fair market value (or in some instances the basis) of property contributed to the qualifying entity. Treasury Regulations provide that the amount deductible may not exceed the excess of:

> "(A) The amount of any cash paid and the fair market value of any property (other than cash) transferred by the taxpayer to an organization described in section 170(c); over
>
> (B) The fair market value of the goods or services the organization provides in return."
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> *Treas. Reg. Sec. 170A-1(h)(2)(i)*

By virtue of this "*quid pro quo*" provision, a taxpayer who makes a $100 gift to public radio and receives a tote bag in return must reduce the amount of the deduction by the fair market value of the tote bag. For example, if the value of the tote bag is estimated to be $20, the taxpayer may only claim a deduction of $80.[9]

Federal Tax Deduction for Charitable Contributions. The basic logic underlying the *quid pro quo* regulation is that the deduction should be limited to the actual net cost of the gift to the taxpayer — i.e., the gross amount of the gift minus the value of goods or services received in exchange for the gift. While this "net cost to the taxpayer" principle makes intuitive sense, it bears noting that federal tax law ignores (and has always ignored) the value of the federal charitable contribution deduction itself. These tax savings are often substantial. For a taxpayer subject to a 37 percent marginal tax rate, a $100 gift results in a $100 deduction, even though that deduction reduces the net cost of the gift to $63. In other words, in making the quid pro quo determination, federal tax law ignores the $37 of tax savings arising from the gift. If instead of cash the taxpayer donates $100 value property with a zero basis, she not only secures a $100 deduction but also avoids federal income tax on the $100 of built-in gain, saving her (assuming the property is a capital asset held for more than a year) another $20 in federal income tax liability. In this case, the net cost of the gift to the taxpayer—after backing out the federal tax savings—would be only

[8] 26 U.S.C. 170(c)(1).

[9] This example assumes the cost of the tote bag exceeds $10.90 and thus is not treated as an "insubstantial benefit" within the meaning of Rev. Proc. 90-12 as adjusted for inflation under Rev. Proc. 2017-58, Section 2.30(2).

$43. And yet federal tax law allows (and has always allowed) a deduction for $100, even though the net cost to the taxpayer is only $43. In effect, by virtue of the longstanding rule that tax savings do not constitute a quid pro quo requiring the donor to reduce the amount of the deduction, the taxpayer ends up satisfying $57 of her otherwise nondeductible federal income liability[10] by making a deductible charitable gift.

State Tax Benefits for Charitable Contributions. Like the federal government, state governments commonly provide tax benefits for charitable gifts. These benefits take many forms, including both deductions and credits allowable in calculating the taxpayer's state income tax liability. Like the fair market value of goods or services received in return for making a gift, as well as the federal charitable contribution deduction, state tax benefits reduce the net cost of the gift to the donor. The availability of these benefits raises the question of what effect, if any, these state tax benefits should have on the amount of the taxpayer's federal deduction for the gift. Should they be treated like "the value of goods and services the organization provides in return" under the *quid pro quo* analysis referenced above? Or should they be ignored in the same way that federal tax benefits are ignored?

State Tax Benefits and the Federal Charitable Contribution Deduction

Under current law, a donor is not required to reduce the amount of a federal charitable contribution deduction by the value of state tax benefits generated by the gift. This treatment is evident in the fact that taxpayers have never been required to reduce the amount of a federal charitable contribution deduction by the value of any state deduction to which the contribution may also entitle them. Thus, for example, if a taxpayer makes a donation of $100 that entitles her to a charitable contribution deduction on both her federal and state income tax returns, the amount of the federal deduction is $100, undiminished by the reduction in tax liability flowing from either the federal or state charitable contribution deduction. This same result obtains where the state tax benefit takes the form of a credit rather than a deduction. Thus, if a taxpayer makes a $100 donation to a charitable organization, including a state or political subdivision thereof, and the donation entitles the taxpayer to a $70 credit against her state income tax liability, the amount of the federal charitable contribution deduction would be $100, undiminished by the value of the tax credit. For ease of exposition, this legal rule will be referred to below as the "Full Deduction Rule."

The legal authority supporting the Full Deduction Rule is summarized in an IRS Chief Counsel Advisory memorandum published in early 2011. The facts presented in the memo concern contributions to either a state agency or other qualifying organization in a state

[10] 26 U.S.C. 275(a)(1)

(apparently Missouri)[11] where four separate programs entitle donors to state tax credits with unspecified credit percentages. With regard to each of the four programs considered, donors may contribute cash or other property.

The legal analysis set forth in the 2011 IRS memo is straightforward. The memo first provides an overview of the current treatment of charitable contributions where the donor receives some benefit in return, noting (consistent with the analysis above) that the deduction is allowable "only to the extent the amount transferred exceeds the fair market value of the benefit received, and only if the excess amount was transferred with the intent of making a gift."[12] Citing judicial holdings in *McLennan v. United States*,[13] *Skripak v. Commissioner*,[14] and *Allen v. Commissioner*,[15] the memo reaffirms the well-established conclusion that the "tax benefit of a federal or state charitable contribution *deduction* is not regarded as a return benefit that negates charitable intent, reducing or eliminating the deduction itself" (emphasis added). In addition, citing *Browning v. Commissioner*,[16] the memo observes that the value of the deduction "has not been treated as an item of income under § 61, in the form of an amount realized on the transfer under § 1001."[17]

In each of the court cases cited in the memo, the value of state tax deduction is not treated as a payment from the state or as property received from the state but rather as a reduction, or potential reduction, of state tax liability. In other words, where a charitable gift entitles the donor to a state charitable contribution deduction, the Full Deduction Rule applies and the donor is not required to reduce the amount of the federal charitable contribution deduction under Treas. Reg. Sec. 170A-1(h)(2)(i)(B).

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[11] While Missouri is not named in the memorandum, the addressee is the associate area counsel in Kansas City, and Missouri has several tax credit programs that match the descriptions in the memo. See Mo. Dep't of Revenue, Miscellaneous Tax Credits, http://dor.mo.gov/taxcredit (last visited Jan. 2, 2017).

[12] CCA 201105010, p.4.

[13] 23 Cl. Ct. 99 (1991), subsequent proceedings, 24 Cl. Ct. 102, 106 n.8 (1991), aff'd, 994 F.2d 839 (Fed. Cir. 1993) (noting that "a donation of property for the exclusive purpose of receiving a tax deduction does not vitiate the charitable nature of the contribution)."

[14] 84 T.C. 285, 319 (1985) (noting that "a taxpayer's desire to avoid or eliminate taxes by contributing cash or property to charities cannot be used as a basis for disallowing the deduction for that charitable contribution").

[15] 92 T.C. 1, 7 (1989) (noting that "a taxpayer's desire to avoid or eliminate taxes by contributing cash or property to charities cannot be used as a basis for disallowing the deduction for that charitable contribution").

[16] 109 T.C. 303, 325 (1997) ("Respondent's argument suggests that a taxpayer making a gift of stock worth $100 to a charitable organization may be entitled to a charitable contribution deduction of some lesser amount on account of the economic value of the deduction. That suggestion is untenable. The regulations provide explicitly that, if a charitable contribution is made in property, the amount of the contribution is the fair market value of the property.")

[17] CCA 201105010, p.4.

The central question the 2011 memo aims to address is whether "a state tax benefit in the form of a *state tax credit, or a transferable state tax credit*, is distinguishable from the benefits of a state tax deduction" (emphasis added).[18] This was not an issue of first impression for the IRS Chief Counsel's Office. In at least two previous advisory memos, the IRS faced this issue. In 2002, the IRS Chief Counsel's Office issued an advisory memo concerning the treatment of the Colorado Conservation Easement Credit, which entitles a donor of a conservation easement to a credit up to $260,000 against Colorado income tax liability.[19] In 2004, the IRS Chief Counsel's Office issued an advisory memo concerning the treatment of the Oregon Child Care Tax Credit program, which entitles a donor to the Oregon Child Care Division to a credit against Oregon income tax liability.[20] In both cases, the IRS took note of the longstanding rule that a state charitable contribution *deduction* "is not viewed as a return benefit that reduces or eliminates a deduction under section 170, or vitiates charitable intent."[21] However, both IRS memos declined to address whether the same rule should apply for state tax *credits*, instead concluding that this issue should be addressed by the IRS National Office.

The 2011 memo concludes that the Full Deduction Rule applies not only to state charitable contribution deductions but also to state charitable contribution credits, noting that "*Taxpayers may take a section 170 deduction for the full amount of their charitable contributions of cash and appreciated stock, assuming the requirements of section 170 are otherwise met.*" The memo summarizes the legal basis for this conclusion as follows:

> "Based on our analysis of existing authorities, we conclude that the position reflected in McLennan, Browning, and similar case law generally applies. There may be unusual circumstances in which it would be appropriate to recharacterize a payment of cash or property that was, in form, a charitable contribution as, in substance, a satisfaction of tax liability. Generally, however, a state or local tax benefit is treated for federal tax purposes as a reduction or potential reduction in tax liability. As such, it is reflected in a reduced deduction for the payment of state or local tax under § 164, not as consideration that might constitute a quid pro quo, for purposes of § 170, or an amount realized includible in income, for purposes of §§ 61 and 1001."

Beyond the *McLennan* and *Browning* decisions, the 2011 IRS memo makes specific reference to two additional sources of authority for the Full Deduction Rule: (i) Rev. Rul. 79-315, Holding (3) and (ii) the 6th Circuit's decision in *Snyder v. Commissioner*. Both of

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[18] Id.

[19] CCA 200238041

[20] CCA 200435001

[21] CCA 200238041, pp 5-6; CCA 200435001, p. 4 ("the fact that states typically provide for a similar deduction in determining the taxable income base for state tax purposes does not affect the federal deduction under I.R.C. Sec. 170).

these precedents represent instances where a state tax credit was treated as a reduction or potential reduction in tax liability (rather than as a payment from the state) and thus support the Full Deduction Rule.

Rev. Rul. 79-315, Holding (3). In Rev. Rul. 79-315, the IRS described the federal income tax treatment of income tax rebates paid by the state of Iowa to its residents in 1979. By virtue of legislation enacted in May 1979, the state of Iowa determined that individuals subject to the state's income tax in 1978 should receive a rebate of a portion of their 1978 state income tax liability. Rulings (1) and (2) concern taxpayers for whom the 1979 rebate took the form of a *refund* of 1978 taxes paid on returns that had already been filed. In those two cases, the treatment of the refund turned on the application of the familiar tax benefit rule under which the refund is (1) taxable if the taxes refunded were deducted on the individual's 1978 federal income tax return, but (2) not taxable if the taxes refunded were not deducted on the individual's 1978 federal income tax return.

Holding (3) — i.e., the one relevant to the present analysis — concerns those taxpayers for whom the Iowa rebate took the form of a *credit* against 1978 income taxes not yet paid. Under Holding (3), "[i]f all or a portion of an individual's refund is credited against tax due for 1978, *the amount credited is treated as a reduction of the outstanding tax liability*. The amount credited against unpaid 1978 tax is neither includible in the individual's gross income for 1979 nor deductible under section 164(a)(3) of the Code as a state income tax paid in 1979."[22]

The intuition underlying Holding (3) of Rev. Rul. 79-315 is that where a state grants a taxpayer an income tax credit on their state tax return, that credit is not treated as the receipt of cash or other item of value but rather merely represents an adjustment to the taxpayer's as yet undetermined state income tax liability. This may seem like a formal distinction, but of course there are numerous instances throughout all of U.S. tax law where substantive outcomes turn on formal distinctions.[23] In this case, the formality of being granted a state tax credit, rather than receiving a cash refund from the state, results in the taxpayer simply treating the amount as a reduction, or potential reduction, in as yet undetermined tax liability rather than going through the process of applying the tax benefit rule. In effect, the Ruling is concluding that, in the case of taxpayers receiving a credit instead of a cash refund, the final amount of their 1978 state income tax liability is not yet known and the credit is simply applied in making that determination. Accordingly, Holding (3) of Rev. Rul. 79-315 supports the conclusion of the 2011 IRS memo that the granting of a state tax credit is not treated as the payment of money or receipt of property that might be regarded as a *quid pro quo,* but rather merely represents an adjustment of the taxpayer's as yet undetermined tax liability.

[22] Rev. Rul. 79-315, Holding (3) (emphasis added).
[23] See, e.g., 26 U.S.C. 199A(d)(2)(A) (2018).

Snyder v. Commissioner.[24] The 1990 decision of the U.S. Court of Appeals for the Sixth Circuit in *Snyder v. Commissioner* adopted the same logic as Holding (3) of Rev. Rul. 79-315. The *Snyder* case involved a taxpayer who was a partner in a partnership that operated a horse racing track near Cleveland, Ohio. Under Ohio law in effect at the time, all such racetracks were required to collect and remit to the state certain pari-mutuel taxes based on the gross amount wagered at the track each day. Ohio law also provided for a credit against such taxes equal to 70 percent of the amount of certain capital improvements made to the racetrack property as certified by the state. The partnership made certified capital improvements to its racetrack in an amount sufficient to entitle it to a tax credit of $534,712, which was used to reduce its pari-mutuel tax obligations in 1976 ($252,826) and 1977 ($281,886).

The question addressed by the court in *Snyder* was how the taxpayer should treat these state tax credits for federal income tax purposes. In lower court proceedings before the U.S. Tax Court, the government took the position that because Snyder was an accrual method taxpayer, it was required to include the full value of the tax credits in income in the year the credits were certified. Under this view, the taxpayer would be entitled to deduct the full amount of the pari-mutuel taxes rather than treating the tax credits as a reduction in the amount of tax owed. The Sixth Circuit rejected this approach, concluding instead that the proper treatment of the tax credit was simply "to reduce the deductions available to the [the partnership] for its pari-mutuel tax obligations, which reduced deductions accrued as those taxes become due." The Sixth Circuit's decision on this question expressly rejected two alternative views: (1) the value of the tax credits was income to the taxpayers,[25] and (2) the taxpayer's basis in the improvements should be reduced by the amount the credits.[26] In rejecting these alternatives, the court embraced the same logic that subsequently formed the basis of the 2011 IRS memo on charitable tax credits – i.e., state tax credits are not treated as a payment from the government but rather merely represent an adjustment, or potential adjustment, to the recipient's state tax obligations.

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[24] 894 F.2d 1337 (6th Cir. 1990) (unpublished opinion).

[25] The view that the tax credits were income to the Snyders was the position advanced by the government and accepted by the Tax Court, but that position was ultimately rejected not only by the Sixth Circuit but also by the government ("The Commissioner concedes that he and the Tax Court were wrong on this point, and the Snyders were right.")

[26] The taxpayers initially took the view that their basis in the capital improvements (completion of which generated the credit) should be reduced by the amount of the tax credit. However, as the Sixth Circuit noted, all of the parties agreed that this treatment was erroneous ("It is undisputed that the partnership's treatment of the pari-mutuel tax reduction was wrong…")

Recent Judicial Authority Supporting the Full Deduction Rule

At the time of the 2011 IRS memo, there was no judicial authority directly addressing the Full Deduction Rule. As noted above, the *Snyder* holding embraced the underlying logic of the Full Deduction Rule (i.e., state tax credits are not a payment from the state but merely an adjustment to state tax owed), but *Snyder* itself concerned state tax credits granted in exchange for making certain capital improvements rather than in the charitable gift context. More recently, however, the U.S. Tax Court (in *Tempel v. Commissioner, Route 231 LLC v. Commissioner*, and *SWF Real Estate, LLC v. Commissioner*) and at least two federal courts of appeals—the Tenth Circuit (in *Esgar Corporation v. Commissioner*, affirming *Tempel v. Commissioner)* and the Fourth Circuit (in *Route 231 LLC v. Commissioner*, affirming the Tax Court) have effectively endorsed the Full Deduction Rule, fortifying the legal underpinnings of the determination reached by the IRS in its 2011 advisory memo.

Tempel v. Commissioner.[27] The *Tempel* case involved taxpayers who had made donations of conservation easements on 54 acres of land in Colorado in 2004. Under Colorado law, the donation of a perpetual conservation easement (PCE) entitled the donor to a transferable state income tax credit. For 2004, the amount of the charitable tax credit was equal to 100 percent of the value of the donation up to $100,000 plus 40 percent of the value in excess of $100,000 – up to a maximum allowable credit of $260,000. Because the value of the PCE donated by the taxpayers was $836,500, the taxpayers claimed the maximum allowable credit of $260,000. In the two weeks immediately following the receipt of the credits from the state, the taxpayers sold a portion of the credits (representing $110,000 of credits) to unrelated third parties for $82,500. The central question raised in *Tempel* was the appropriate federal income tax treatment of the *sale* of the Colorado tax credits, in particular whether the gain from the sale of the credits was capital gain or ordinary income.

The court's focus on the tax consequences of *selling* the credits is important because it reveals the parties' (and the court's) agreement with regard to the logically prior question of how to treat the *receipt* of state charitable tax credits. As the Tax Court noted early in its opinion, the government took the position (and the taxpayers agreed) "that petitioners' receipt of State tax credits as a result of their conservation easement contribution was neither a sale or exchange of the easement ***nor a quid pro quo transaction***."[28] This is, of course, the exact view expressed in CCA 201105010, so it is no surprise that the government would advance this position in litigation. Since there was no disagreement on this point, the court did not devote much of its analysis to the *quid pro quo* question, focusing instead on its holding that the credits were capital assets the sale of which gave

[27] 136 T.C. 341 (2011).
[28] Id. at 344 (emphasis added).

rise to short-term capital gain equal to the sale proceeds received by the taxpayers in exchange for the credits. Nevertheless, in reaching that conclusion, the Tax Court did offer some relevant legal guidance regarding the federal income tax treatment of the receipt of state charitable tax credits. There are two elements in particular of the Tax Court's holding in *Tempel* that deserve mention.

First, in considering one of the government's arguments regarding the character of the gain from the sale of the credits, the court offered its own view of the tax consequences of the receipt of a state charitable tax credit. It was necessary for the court to address this question because the IRS had argued that the tax credits represented the "economic equivalent of ordinary income" on the theory that "if an individual taxpayer who sells credits itemizes deductions (ignoring phase-outs), that taxpayer's section 164 Federal income tax deduction is greater than it would have been had the taxpayer retained and used the credits." In other words, the IRS was arguing that because the taxpayer's failure to use the credits preserved a deduction reducing ordinary income, the sale of the credit should be treated as giving rise to ordinary income.

Importantly, the Tax Court not only rejected this argument, but also used the opportunity to emphasize that the receipt of a state charitable tax credit is a non-event and that the reduction in state tax liability that the credit enables does not create income. The court first noted that a "reduction in a tax liability is not an accession to wealth. Consequently, a taxpayer who has more section 164 deductions has not received any income." Here the court notes that "[e]ven respondent recognizes that a reduction in taxes does not create income" (citing Rev. Rul. 79-315). The court goes on to observe that "[t]he parties and this Court agree that the receipt of a State tax credit is not an accession to wealth that results in income under section 61." In two additional passages, the court further underscored this point:

> "It is without question that a government's decision to tax one taxpayer at a lower rate than another taxpayer is not income to the taxpayer who pays lower taxes. A lesser tax detriment to a taxpayer is not an accession to wealth and therefore does not give rise to income."

and

> "Credits do not increase a donor's wealth, as long as they are used to offset or reduce the donor's own State tax responsibility. A reduced tax is not an accession to wealth. It is only, as occurred in the instance case, when the donor sells or exchanges a State tax credit to a third party for consideration that an accession to wealth has occurred."

These passages reflect the same logic underlying Rev. Rul. 79-315 and *Snyder v. Commissioner*, discussed above. As *Tempel* confirms, when a state grants a taxpayer a tax credit, the state is not regarded as making a payment to the taxpayer or transferring an

item of value to the taxpayer but rather is merely exercising its sovereign power to "tax one taxpayer at a lower rate than another taxpayer." The tax credit is simply the mechanism by which a state government decides to impose a "lesser tax detriment" on one party by virtue of its actions or attributes. The credit does not involve a reduction of a past or even existing liability but rather is one of the many variables that the state, in its sovereign capacity, has decided to take into account in determining the final amount of the taxpayer's as yet undetermined tax liability.

The second element of the *Tempel* holding relevant to the *quid pro quo* analysis is the Tax Court's discussion of the taxpayer's *basis* in the tax credits granted to them by virtue of the charitable gift. Because the taxpayers eventually sold the credits, rather than using them to reduce their own tax liability, it was necessary to determine their basis in order to calculate the amount of any gain or loss on the sale.[29] Here again, the holding endorses the Full Deduction Rule in finding that the taxpayer's basis in the charitable tax credits was zero. Recall that the value of the donated easement was $836,500 and the amount of the credits granted by Colorado was $260,000. Under a *quid pro quo* analysis, that transaction would be regarded as (1) a gift of property worth $576,500, and (2) a purchase of state tax credits for $260,000. That is the essence of the *quid pro quo* analysis—i.e., a bifurcation of the transaction into its gift and non-gift components. Recall that when a donor of $100 to public radio receives a tote bag worth $20, she is treated as (1) making a gift of $80, and (2) purchasing a tote bag for $20. In this situation, the donor's basis in the tote bag is $20.

Consistent with the view that the receipt of a state charitable tax credit is not a *quid pro quo* transaction, the Tax Court in *Tempel* rejected this approach, concluding instead that the taxpayers "did not acquire the State tax credits by purchase"[30] and therefore they "do not have any basis in their State tax credits." In reaching this conclusion, the Court emphasized that "[i]t was the State's *unilateral* decision to grant petitioners the State tax credits as a consequence of their compliance with certain State statutes."[31] In other words, the Tax Court's view is that a state charitable tax credit is not regarded as consideration for the gift, but rather flows from the unilateral decision by the state government to confer a lesser tax detriment on those who make qualifying gifts of conservation easements. The Tax Court's decision in *Tempel v. Commissioner* was later affirmed by the Tenth Circuit.[32]

Route 231, LLC v. Commissioner.[33] In another case involving state charitable tax credits, the Tax Court and the Fourth Circuit also touched on the question of whether such credits should be regarded as a *quid pro quo*. *Route 231 LLC v. Commissioner* involved a limited

[29] 26 U.S.C. Sec. 1001(a).
[30] 136 T.C. 341, 353.
[31] Id. (emphasis added).
[32] 744 F.2d 648 (10th Cir. 2014) (consolidated appeal of *Tempel v. Commissioner*, 136 T.C. 341 (2011) and *Esgar Corporation v. Commissioner*, T.C. Memo 2012-35 (2012)).
[33] T.C. Memo 2014-30; aff'd is 810 F.2d 247 (4th Cir. 2016)

liability company formed in 2005 by Raymond Humiston and John D. Carr for the purpose of acquiring and operating certain real property in Albemarle County, Virginia. The LLC acquired real property (Castle Hill and Walnut Mountain) in June 2005. Carr and Humiston then engaged a consultant to determine whether and how to devote some portion of the property to conservation purposes. As a result of these deliberations, on December 27, 2005 the parties amended the LLC's operating agreement to admit a new member, Virginia Conservation Tax Credit FD LLLP ("Virginia Conservation") in exchange for a capital contribution of $3,816,000. On December 30, 2005, the LLC made certain charitable contributions, including two gifts of conservation easements, (one to the Nature Conservancy and the other to the Albemarle County Public Recreational Facilities Authority) and a third gift of a fee interest (to the Nature Conservancy). Under Virginia law in effect at the time, the donor of a conservation easement was entitled to a state charitable tax credit equal to 50% of the fair market value of the property donated. Based on an appraisal undertaken at the time of the gift, the taxpayers were allocated state tax credits totaling roughly $7.4 million. Under the terms of the amended LLC operating agreement, $7.2 million of these credits were allocated to Virginia Conservation.

The central tax question in the *Route 231, LLC* litigation was whether the combined capital contribution by Virginia Conservation and subsequent allocation of the lion's share of the tax credits to Virginia Conservation should be treated as a "disguised sale" of the credits under section 707 of Subchapter K. The Tax Court determined that this was indeed a disguised sale and the Fourth Circuit agreed. For present purposes, the relevant aspect of the *Route 231, LLC* outcome concerns the federal income tax consequences of that sale. That is, once the determination is made that the substance of the transaction is a sale of the credits from Route 231, LLC to Virginia Conservation on December 30, 2005, what are the federal income tax consequences of that sale to Route 231, LLC?

We know that the LLC reported that it had made noncash charitable contributions for tax year 2015 in the amount of $14,831,967, representing the full value of the three charitable gifts, undiminished by the $7,415,983 worth of state charitable tax credits granted by Virginia as a result of the gifts. We also know that the IRS did not challenge that return position, but rather took the view that the taxpayer sold tax credits with a zero basis on December 30, 2005. Here again we see the same analysis as applied in the *Tempel* decision discussed above. Where a donor makes a gift entitling her to a state charitable tax credit: (1) the amount of the federal charitable contribution deduction is the full value of the gift, undiminished by the state tax credits, and (2) any subsequent sale of the credits is treated as a sale of a zero basis asset since the credits are not acquired by purchase but rather result from the unilateral action of the government to confer a lesser tax detriment on the party who has chosen to make the charitable transfer. In summary, this application accords with the Full Deduction Rule expressed in CCA 201105010 and *Tempel v. Commissioner*.

SWF Real Estate, LLC v. Commissioner.[34] In a separate but virtually identical case, the Tax Court in *SWF Real Estate, LLC v. Commissioner* addressed the same issues raised in *Route 231, LLC*. As with *Route 231*, the taxpayer purchased real estate in Albemarle County, Virginia (Sherwood Farm). Relying on the same Virginia statute (i.e., the Virginia Land Preservation Tax Credit Program), on December 29, 2005 SWF executed a deed of conservation easement conveying the easement to the Albermarle County Public Recreational Facilities Authority, a governmental body of Albermarle County and political subdivision of the Commonwealth of Virginia. According to an appraisal undertaken in early December 2005, the easement had a value of $7,398,333, meaning that its donation to the government would generate state tax credits in the amount of $3,699,167. On its federal income tax return for 2005, the taxpayer reported a noncash charitable contribution of $7,398,333 — i.e., the full amount of the gift, undiminished by the state tax credits generated by the gift.

As with *Route 231, LLC*, the primary question in *SWF Real Estate, LLC* concerned whether an allocation of the tax credits to a new partner (in fact, the same entity – Virginia Conservation) should be treated as a "disguised sale" under section 707. And as in that prior case, the court determined that there was in fact a disguised sale of the state tax credits to Virginia Conservation. For present purposes, however, the more relevant holding of *SWF Real Estate, LLC* concerns the *amount* of the charitable contribution allowed for 2005. While the taxpayer had claimed a noncash contribution of $7,398,333, the Tax Court considered alternative appraisals and determined that the appropriate amount of the charitable contribution deduction was $7,350,000. While this allowed deduction is slightly lower than the claimed amount, it is noteworthy that the amount of the charitable contribution deduction was ***not*** reduced by the state tax credits. Thus, like the prior cases of *Tempel* and *Route 231, LLC*, the Tax Court's holding in *SWF Real Estate, LLC* once again applied the Full Deduction Rule in determining the amount of the allowable charitable contribution deduction.

Maines v. Commissioner.[35] One final post-CCA 201105010 judicial opinion deserves mention. Although it does not involve charitable contributions, the Tax Court's decision in *Maines v. Commissioner* is significant because of its discussion of the federal income tax treatment of state tax credits. The taxpayers in *Maines* owned interests in an S Corporation and a partnership, both of which had made certain investments in New York entitling them to three state tax credits: the EZ Investment Credit, the EZ Wage Credit, and the QEZE Credit for Real Property Taxes. Eligibility for these credits required investment in certain impoverished areas designated by the state. While eligibility depended on the entity meeting the investment requirements, the credits passed through to the taxpayers on their individual returns. The EZ Investment Credit, equal to eight percent of certain qualifying

[34] T.C. Memo 2015-63.
[35] 144 T.C. 123 (2015).

investments in tangible property, could be claimed against income tax or corporate franchise tax and the taxpayer could carry forward any unused portion or receive half of the excess as a refund. Similarly, the EZ Wage Credit was first used to reduce corporate franchise or income tax liability with any excess credit either carried forward or partially refunded, at the taxpayer's election. Finally, the QEZE Real Property Tax Credit was calculated by reference to real property taxes previously paid by the qualifying business but the credit was claimed by the taxpayers on their individual income tax return.

The Tax Court's holding in *Maines* is consistent with the approach outlined in Rev. Rul. 79-315, discussed above. First, where a credit entitles a taxpayer to a refund of a prior year's tax liability, the taxability of the refund is determined under the tax benefit rule. This holding applied to the QEZE Credit for Real Property Taxes and is consistent with Holdings (1) and (2) of Rev. Rul. 79-315. Second, where a credit is applied to reduce the current year's tax liability, the credit is not taxable or otherwise treated as an item of income but rather simply reduces a tax obligation. This holding applied to the nonrefundable portions of the EZ Investment Credit and the EZ Wage Credit and is consistent with Holding (3) of Rev. Rul. 79-315. Beyond these two holdings, the court also concluded that the taxpayer must include in income the *refundable* portion of the credits.[36] Thus, the holding in *Maines* illustrates an important limitation on the principle underlying the Full Deduction Rule. If a state charitable tax credit is refundable, entitling a donor not only to reduce her state tax liability but also secure a refund to the extent that the credit exceeds tax owed, then it is possible that the refundable portion of the credit would be treated as a payment from the state rather than a mere reduction, or potential reduction in tax liability.

Randall v. Loftsgaarden. To our knowledge, the Supreme Court has addressed the federal income tax treatment of tax credits in only one case: *Randall v. Loftsgaarden*.[37] The petitioners in that case purchased interests in a limited partnership formed by the respondent to build and operate a motel. The respondent marketed the scheme as a tax shelter and promised substantial after-tax returns for investors in the top income tax brackets. While the partnership did generate tax benefits for the petitioners in its early years, the enterprise ultimately failed, and the petitioners successfully sued the respondent for securities fraud. The issue before the Supreme Court concerned the damages to which the petitioners were entitled. The relevant provision of the Securities Act of 1933, section 12(2), provides for recovery in certain cases equal to "the consideration paid for such security with interest thereon, *less the amount of any income received thereon*."[38] The

[36] Id. (holding that the "excess portion that remains after first reducing state-tax liability and that may be refunded in an accession to the Maineses' wealth, and must be included in their federal gross income under section 61.")
[37] 478 U.S. 647 (1986).
[38] 15 U.S.C. § 77*l*(a).

question for the Court was whether the petitioners' damages should be reduced by the value of the tax benefits they received from their investment.[39]

By an 8-1 vote, the Court found in favor of the petitioners. According to the Court, "§ 12(2)'s offset for 'income received' on the security does not encompass the tax benefits received by defrauded investors by virtue of their ownership of the security, because such benefits cannot, under any reasonable definition, be termed 'income.'"[40] The Court went on to say:

> "[T]he 'receipt' of tax deductions or credits is not itself a taxable event, for the investor has received no money or other 'income' within the meaning of the Internal Revenue Code. See 26 U.S.C. § 61. Thus, we would require compelling evidence before imputing to Congress an intent to describe the tax benefits an investor derives from tax deductions or credits attributable to ownership of a security as 'income received thereon.'"[41]

Randall's holding is about a provision of securities law and thus this passage about the income tax treatment of credits is dicta. Furthermore, *Randall* does not address the central question of whether a tax credit should be treated as a quid pro quo return benefit for purposes of section 170. Nevertheless, *Randall* clearly addresses—and clearly dismisses—the possibility that the amount of a credit should be includible in income for purposes of section 61. In this respect, the case provides solid support for the conclusion common to Rev. Rul. 79-315, *Snyder*, *Tempel*, *Maines*, and the 2011 IRS memo that tax credits are not an item of income. Put another way, the Court's statement that tax benefits "cannot, under any reasonable definition, be termed 'income'," though dicta, would loom large over any effort by the IRS to argue otherwise. As we explain below, there are good reasons for so many authorities to reach the same conclusion.

Arizona Christian School Tuition Organization v. Winn.[42] One additional U.S. Supreme Court decision deserves mention because of its extended discussion of state charitable tax credits. *Winn* involved an Establishment Clause challenge to Arizona's system of providing 100% charitable tax credits for donations to School Tuition Organizations (STOs) that fund tuition scholarships to private schools, including religious schools. A group of Arizona taxpayers challenged the constitutionality of this program, but the Supreme Court dismissed their challenge on the basis that the taxpayers lacked the required "standing" under Article III of the Constitution. The court's analysis of the standing issue involved considering an earlier standing case, *Flast v. Cohen*.[43] In making their argument that they

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[39] *Randall*, 478 U.S. at 649-55.
[40] Id. at 656.
[41] Id.
[42] 563 U.S. 125 (2011).
[43] 392 U.S. 83 (1968).

had standing under *Flast*, the respondents in *Winn* alleged that Arizona's 100% tax credits were "best understood as a governmental expenditure" and that by making donations entitling them to 100% state income tax credits, donors to STOs were "in effect … paying their state income tax to STOs."

In his opinion for the majority, Justice Kennedy rejected both of these arguments. As to whether state tax credits should be understood as a government expenditure, the Court noted simply "[t]hat is incorrect" and said instead that tax credits are an instance of "the government declin[ing] to impose a tax…" The Court did not characterize the granting of state tax credits as a transfer of money or other property to the taxpayer (the essential elements of a *quid pro quo* transfer). Rather, "[w]hen Arizona taxpayers choose to contribute to STOs, they are spending their own money, not money the State has collected from respondents or from other taxpayers." The Court also emphasized that donations to Arizona STOs were fully voluntary, concluding that "respondents and other Arizona taxpayers remain free to pay their own tax bills, without contributing to an STO" or, alternatively, they could "contribute to an STO of their choice, either religious or secular" [or] "other charitable organizations, in which case respondents may become eligible for a tax deduction or a different tax credit." Significantly, the point here seems to be that, when an individual makes a gift to an STO, the Supreme Court regards that act as a wholly voluntary private decision, despite the fact that the gift generates a 100% tax credit, reducing the donor's tax liability on a dollar-for-dollar basis.

The second element of the Court's analysis is perhaps even more relevant to the Full Deduction Rule. Recall that in CCA 201105010, when the IRS embraced the Full Deduction Rule, it also noted that "[t]here may be unusual circumstances in which it would be appropriate to recharacterize a payment of cash or property that was, in form, a charitable contribution as, in substance, a satisfaction of tax liability." In *Winn*, the Supreme Court appears to express the view that donations generating a 100% state tax credit are not one of those circumstances: "Like contributions that lead to charitable tax deductions, contributions yielding STO tax credits are not owed to the State and, in fact, pass directly from taxpayers to private organizations. Respondents' contrary position [that a tax credit donation constitutes a satisfaction of a tax liability] assumes that income should be treated as if it were government property even if it has not come into the tax collector's hands."[44]

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[44]One might argue that the court's characterization of STOs as "private organizations" is an essential element of the Court's analysis here, but the "private" aspect of these organizations cannot be essential to the holding. First, Congress has determined that both public and private organizations are entitled to receive deductible charitable donations (26 U.S.C. 170(c)). There is no favored "private" category. Second, treating tax credits as a *quid pro quo* only in the case of donations to public entities (but not in the case of donations to private organizations) would run afoul of longstanding precedent that the "return benefit" in *quid pro quo* transfers need not come directly from the donee organization but can also consist of indirect benefits (see e.g., Singer

Thus, *Winn* confirms two essential insights regarding the fundamental nature of state charitable tax credits: (1) when the government grants charitable tax credits to a donor, it is not transferring money, property, or anything of value to the donor, and (2) a voluntary donation of the donor's resources to a state-designated organization does not constitute the "satisfaction of tax liability" even where the donation results in a dollar-for-dollar state tax credit.[45] While *Winn* is not itself a tax case, it should be clear that these two insights are in full accord with all of the other judicial and administrative pronouncements supporting the Full Deduction Rule.

State Tax Credits as a "Lesser Tax Detriment"

Beyond the several cases discussed above, there are of course many other instances where a taxpayer is entitled to a state tax credit for one reason or another. In all of these instances, it is necessary to determine the federal income tax consequences of a taxpayer's receipt of the state tax credit. Because the situations are so numerous and varied, it is not possible to describe them here. It bears noting, however, that in each of these instances the IRS has relied upon the exact same principle underpinning the Full Deduction Rule—i.e., the principle that nonrefundable tax credits should be regarded merely as conferring a "lesser tax detriment" rather than as a payment from the state.

For example, the IRS concluded that the nonrefundable portion of a Minnesota state income tax credit granted to any resident that is or was in active military service should be treated as a reduction in state tax liability rather than a payment from the state.[46] Similarly, the IRS concluded that the nonrefundable portion of a Massachusetts state income tax credit granted to certain low-income taxpayers who paid real estate taxes or rent should be treated as a reduction in state tax liability rather than as a payment from the state

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Company v. United States, 449 F.2d 413, 422 (Ct. Cl. 1971). The tax credits in Winn, and other such cases, were only given to organizations that satisfied extensive state criteria, as the Court clearly understood. Winn, 563 U.S. 130-31. If a credit for donations to a state-established fund is a problem (and it is not), then why should a credit for donations to a state-blessed fund not also be a problem? In both cases, the donated resources are directed to services and activities determined by the state. Thus, any claim that state charitable tax credits constitute a *quid pro quo* only in the case of gifts to public entities is not consistent with current law, and any claim that such credits should be uniquely disfavored does not rest on a solid analytic distinction. Finally, and most crucially, as explained above, federal tax law has addressed this specific issue and has never regarded any tax benefits, either federal or state, and whether in the form of deductions or credits, as a *quid pro quo* benefit requiring a reduction in the taxpayer's federal charitable contribution deduction.

[45] As explained further below, we have some doubts as to whether that second point is a reasonable conclusion. Nevertheless, the Supreme Court's views on this issue are certainly relevant in determining the circumstances when a voluntary gift generating state credits should be regarded as, in substance, the payment of a tax.

[46] IRS Chief Counsel Advisory 200708003.

government.[47] In yet another advisory memorandum concerning Massachusetts, the IRS considered the federal income tax consequences of five separate state tax credit programs: (1) Brownfields Tax Credit, (2) Motion Picture Tax Credit, (3) Historic Rehabilitation Tax Credit, (4) Low-Income Housing Tax Credit, and (5) Medical Device Tax Credit. Here again the IRS recited the longstanding principle discussed above:

> "The taxpayer that originally receives – that is, qualifies for – one or more of the described credits is not viewed as having received property in a transaction that results in the realization of gross income under § 61. Generally, a state tax credit, to the extent that it can only be applied against the original recipient's current or future state tax liability, is treated for federal income tax purposes as a reduction or potential reduction in the taxpayer's state tax liability, not as a payment of cash or property to the taxpayer that is includible in gross income under § 61."[48]

In one particularly revealing passage, appearing in the first footnote of CCA 201147024, the IRS observed that "*we do not agree that a such a reduction in a taxpayer's potential tax liability is the equivalent of a payment to the taxpayer…*; *instead*, as stated in the text, *in the hands of the taxpayer that originally qualifies for the benefit*, *it simply enters into the computation of the taxpayer's state or local tax liability and is reflected in the amount of the taxpayer's § 164 deduction.*"[49] It should be apparent from the discussion above that this italicized passage is not anomalous. Rather, this principle has surfaced repeatedly throughout federal tax law, in a variety of settings, whenever a question relating to state tax credits arises. This is the sense in which the principle is "trans-substantive" — i.e., it applies not only in the context of charitable contributions generating state tax credits but in a wide range of other contexts as well.

Policy Considerations in Support of the Full Deduction Rule

As noted above, the Full Deduction Rule is discussed and supported in cases involving odd fact patterns, such as the sale of tax credits in *Tempel*, *Route 123, LLC* or *SFW Real Estate, LLC*. There are no cases challenging the rule in its common application: when a taxpayer takes a full federal deduction notwithstanding state tax credits that offset some but not 100% of the cost. The rule in that situation appears to be too obvious to be challenged or need defense. The 2011 IRS memo confirms the rule but does not discuss its justification. This is also consistent with a view that the rule is well settled law.

We can think of at least three policy considerations underlying the Full Deduction Rule in those circumstances.

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[47] IRS Chief Counsel Advisory 201423020.
[48] IRS Chief Counsel Advisory 201147024.
[49] Id. (emphasis added).

First, the rule reduces arbitrariness and significant computational and administrative difficulties. The most likely alternative rule would limit the deduction by the amount of state tax benefit. Under that rule, the amount of the federal tax charitable deduction would vary from state to state, and vary from taxpayer to taxpayer within each state. This would be arbitrary in itself, and raise practical difficulties for taxpayers and tax agencies. A taxpayer would learn the amount of her federal deduction only by doing simulations at the time of filing; first simulating her state tax liability with the contribution, and then without the contribution. She would not know the amount of her deduction when making the contribution. The simulations would be burdensome and confusing to taxpayers, and the fact that the amount of deduction could not be known at the time of the contribution would create uncertainty that would likely limit contributions. This alternative rule would also be burdensome to the IRS, since it could challenge a deduction only by making similar simulations of the taxpayer's state tax liability. These difficulties would be magnified if states adopted the federal approach, so that state benefits were limited by the federal benefits, just as federal benefits were limited by state benefits. At that point, determining the amount of federal or state benefit would require the use of an algebraic formula that took the limitation of both benefits into account. Such a calculation would be beyond the comprehension of all but a few taxpayers or tax preparers. Variants of this alternative rule - such as denying a deduction when the state tax benefit reached a certain point - would require similarly confusing calculations, and have the further disadvantage of arbitrariness, creating a “cliff effect” for taxpayers who fall just short of the acceptable benefit.

Second, the Full Deduction Rule is consistent with the fundamental principles that underlie the concept of taxable income. The federal tax laws have historically recognized the entirety of certain state taxes as a deduction. However, federal law has never attempted to go beyond those easily determined figures by inquiring as to whether the internal calculations of state tax liability generates federal taxable income. There is a good reason for this. It is impossible to know whether the combination of rates, deductions, credits and state services a taxpayer receives makes her better or worse off in a way that can be recognized by a concept such as federal taxable income. Theories on which to base taxable income, such as the Haig-Simons definition of income, have never been understood to incorporate this determination. The numerous judicial and administrative authorities cited above likewise reflect a judgment not to regard the various credits and deductions allowed in computing state tax liability as producing taxable income.

Finally, the Full Deduction Rule is supported by considerations of federalism. State credits in this context are used to stimulate contributions that impact state programs and state residents. For example, the Colorado conservation credits described above put land in the public trust for the benefit of residents (and visitors). Contribution-related credits enacted at the state level serve a variety goals, affecting not only the taxpayers who qualify for the credits, but the wider public as well. The Full Deduction Rule is properly neutral toward these state initiatives.

In some circumstances, states have enacted tax credits that offset 100% of the cost of contributions. That is true with respect to school tuition tax credits adopted in several states, as well as the Cultural Trust credit adopted by Oregon. Currently, these contributions qualify under the Full Deduction Rule. Many of the arguments behind the Full Deduction Rule apply to these credits as well. For example, these credits increase spending in targeted areas, and affect the lives of state residents. These credits would be supported by considerations of federalism. However, other policy considerations in support of Full Deduction might not apply to these credits. For example, a rule that treated these fully offset contributions as the equivalent of a tax would avoid many of the difficult calculation issues described above. (It would, however, create an arbitrary "cliff effect," as 100% offset contributions were treated as taxes, while other creditable contributions qualify for a deduction of the full amount, undiminished by the value of the credit.) The administrative considerations supporting the Full Deduction Rule in other cases might not apply here.

Contributions that offset state taxes on a one-to-one basis and were not specifically targeted to taxpayer-directed areas (such as conservation or education) might also be subject to recharacterization as a tax under common-law tax doctrines such as substance over form. In its 2011 advisory memo embracing the Full Deduction Rule, the IRS stated "*There may be unusual circumstances in which it would be appropriate to recharacterize a payment of cash or property that was, in form, a charitable contribution as, in substance, a satisfaction of tax liability*."[50] We have no way of know what sort of "unusual circumstances" the IRS may have had in mind when it included this passage in its 2011 advisory memorandum. One could imagine the IRS taking the position that state charitable tax credits set to 100% of the amount donated should be treated "as, in substance, a satisfaction of tax liability." But since the IRS and the courts have consistently allowed a full deduction for charitable contributions, without any reduction for state tax credits, we are left to speculate about what the IRS might have meant.

We take no position as to whether the IRS would attempt to challenge a deduction for a contribution that was 100% offset by tax credits, and no position as to whether that challenge would be successful. For state charitable tax credits less than 100%, more difficult line-drawing questions arise. There is no clear legal basis for differentiating among state charitable tax credits with varying credit percentages, and treating all charitable tax credits as a *quid pro quo*, requiring the donor to reduce the amount of their federal deduction by the value of the credit, would not only be inconsistent with the legal precedent but would also entail considerable complexity, both for taxpayers and tax administrators. Thus, we believe that current law supports the Full Deduction Rule in the case of donations where the donor qualifies for state charitable tax credits equal to less than 100% of the donation. While legal challenges to charitable contribution deductions arising from such donations cannot be ruled out, in our view those challenges should fail

[50] CCA 201105010 (emphasis added).

due to the decades of legal precedent supporting the Full Deduction Rule. And while Congress could of course reject those legal precedents and require a new approach through changes to the Internal Revenue Code, the policy considerations analyzed above should give Congress pause before doing so. At the very least, lawmakers should think carefully about administrability concerns, federalism values, and the practical impact on the more than one hundred existing state charitable tax credit programs in 33 states before upending the well-settled Full Deduction Rule.

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Appendix A

Partial Inventory of Charitable Tax Credits available under State Individual Income Tax Statutes

State	Title of Credit	Description	Amount of Credit	Statute
Alabama	Credit for contributions made to a scholarship granting organization	Contributions to Scholarship Granting Organizations (SGOs), nonprofits that provide private school scholarships to students in need.	100% of the total contributions up to 50% of the tax liability of the taxpayer, not to exceed $50,000; a taxpayer may carry forward a tax credit for up to three years; statewide cumulative $30 million per year.	Ala. Code § 16-6D-9.
Alabama	Credit for contributions made to Career-Technical Dual Enrollment Program	Contributions to the Department of Postsecondary Education for qualifying educational expenses directly associated with the Career-Technical Dual Enrollment Program, a program for eligible high school students to enroll in college-level career technical education courses offered at Alabam Community College System institutions.	50% of the total contributions up to 50% of the tax liability of the taxpayer, not to exceed $500,000; a taxpayer may carry forward a tax credit for up to three years; statewide cumulative $5 million per year.	Ala. Code § 16-60-351. See also definitions at Ala. Code § 16-60-350.
Alabama	Growing Alabama Credit	Conributions to approved local economic development organizations. The Growing Alabama credit is repealed following the close of fiscal year 2020. The repeal will not cause a reduction or suspension of any credits awarded for years during which the credit was in effect.	100% (?) of the total contributions up to 50% of the tax liability of the taxpayer; a taxpayer may carry forward a tax credit for up to five years; statewide cumulative $10 million per year. To the extent that a Growing Alabama credit is used by a taxpayer, the taxpayer will not be allowed any deduction which would otherwise been allowed for the taxpayer's contribution.	Ala. Code § 40-18-413
Alabama	Neighborhood infrastructrue authority project credit	Voluntary assessments paid under the Neighborhood Infrastructure Incentive Plan Act of 2011 for neighborhood infrastructure projects. Note that this Act expired Dec. 31, 2015. However, all local neighborhood infrastructure authorities created pursuant to the Act, in exisistence as of Dec. 31, 2015, must continute in existence until all existing projects of the authority are completed and the authority seeks dissolution.	10% of the amount of assessment paid, not to exceed $1,000 in any tax year, for a period not exceeding 10 successive tax years.	Ala. Code § 11-71-11. See also definitions at Ala. Code § 11-71-2 and sunset provision at Ala. Code § 11-71-12.
Arizona	Contributions to qualifying charitable organizations	Contributions to a qualifying charitable organization other than a qualifying foster care charitable organization	Up to $400 for a single individual or head of household or $800 for a married couple filing jointly; unused credit may be carried foward for up to five years.	Ariz. Rev. Stat. Ann. § 43-1088(A)
Arizona	Contributions to qualifying foster care charitable organizations	Contributions ot a qualifying foster care charitable organization	Up to $500 for a single individual or head of household or $1,000 for a maried couple filing jointly; unused credit may be carried foward for up to five years.	Ariz. Rev. Stat. Ann. § 43-1088(B)

State	Title of Credit	Description	Amount of Credit	Statute
Arizona	Contributions to private school tuition organization	Contributions to a school tuition organization (STO)	For tax year 2016, up to $545 for a single individual or head of household or $1,090 for a maried couple filing jointly; these figures are adjusted annually for inflation.	Ariz. Rev. Stat. Ann. § 43-1089
Arizona	Contributions to certified school tuition organization -- individual	Contributions to a school tuition organization (STO), if the taxpayer's contribution to an STO exceeds the maximum contribution allowed for the credit for contributions to private STO	For tax year 2016, up to $542 for a single individual or head of household or $1,083 for a maried couple filing jointly; these figures are adjusted annually for inflation; unused credit may be carried foward for up to five years.	Ariz. Rev. Stat. Ann. § 43-1089.03
Arizona	Pro rata credit for contributions by an S corporation to school tuition organizations	Pro rata amount of contributions made by an S corporation pursuant to Ariz. Rev. Stat. Ann. §43-1183(F) or Ariz. Rev. Stat. Ann. §43-1184(F) or both (§43-1183 provides a corporate income tax credit for voluntary cash contributions to a certified school tuition organization, and §43-1184 provides a corporate income tax credit for voluntary cash contributions to certified school tuition organizations for displaced students or students with disabilities).	Co-Owners of the S corporation may each claim the pro rata share of the credit allowed under the relevant corporate tax statutes based on their ownership interests; the total credits allowed to all the owners may not exceed the amount that would have been allowed a sole owner of the corporation; unused credit may be carried forward to up to five years	Ariz. Rev. Stat. Ann. § 43-1089.04
Arizona	Contributions made or fees paid to public schools	Contributions made (or fees paid) to a public school in Arizona for: (1) standardized testing for college credit or readiness offered by a educational testing organization, (2) career and technical education industry certification assessment, (3) prep. courses and materials for standardized testing, (4) CPR training, (5) extracurricular activities, or (6) character education programs.	Up to $200 for a single individual or head of household or $400 for a married couple filing jointly; unused credit may be carried forward to up to five years	Ariz. Rev. Stat. Ann. § 43-1089.01
Arizona	Credit for donation of a school site	Donation of real property and improvements to a school district or charter school for use as a school or as a site for the construction of a school.	30% of the fair market value of real property and imporovments donated.	Ariz. Rev. Stat. Ann. § 43-1089.02
Arizona	Credit for donations to the military family relief fund	For tax years Dec. 31, 2007 through Dec. 31, 2018, credit for docnations made to the Military Family Relief Fund.	Up to $200 for a single taxpayer $400 for a married couple filing jointly or the amount of tax liability after all other allowable credits are applied, whichever is lowest.	Ariz. Rev. Stat. Ann. § 43-1086
Arkansas	Contributions in Aid of Construction of Public Roads	Contributions in aid of construction of public roads project to the Public Roads Incentive Fund.	33% of the contribution, no to exceed 50% of the net Arkansas state income tax liability after all other credits and reductions have been calculated; unused credit may be carried forward for three years.	Ark. Code Ann. § 15-4-2306

State	Title of Credit	Description	Amount of Credit	Statute
Arkansas	Wetland and riparian zone conservation tax credit	Donations of wetland and riparian zone qualified real property interest	50% of the donated property's fair market value (excluding short term capital gain), up to $50,000; the credit for a tax year cannot exceed the lesser of tax due or $5,000; unused credit may be carried forward for nine years.	Ark. Code Ann. § 26-51-1505(b)
California	College Access Tax Credit (Prior statute repealed as of Dec. 1, 2017, but new statute authorizing the credit through 2022 became effective January 1, 2018. See the statutes cited at the right.)	Contributions to the College Access Tax Credit Fund, as allocated by the California Educational Facilities Authority	50% of the contribution; capped at $500 million statewide.	Cal. Rev. & Tax. Code § 17053.87 (current version). See also Cal. Rev. & Tax. Code § 17053.86 (repealed operative Dec. 1, 2017)
California	Credit for donated agricultural products	Donation of fresh fruits or vegetables to a food bank located in California	15% of the qualified value of the fruits or vegetables	Cal. Rev. & Tax. Code § 17053.88.5
California	Credit for transportation of donated agricultural products	Costs incurred in connection with the transporation of agricultural products donated to a nonprofit charitable organization	50% of the cost paid or incurred in conncetion with the transportation of the donated products; if the credit is claimed, any deduction otherwise allowed is reduced by the amount of the credit allowed; excess credits may be carried over until exhausted	Cal. Rev. & Tax. Code § 17053.12
California	National heritage preservation tax credits (This credit is scheduled to expire June 30, 2020)	Contribution of property that has been approved for acceptance by the Wildlife Conservation Board	55% of the fair market value of the property; this credit is in lieu of any other credit or deduction; excess credits can be caried over for up to 15 years	Cal. Rev. & Tax. Code § 17053.30
Colorado	Child Care Contribution Credit (This credit is schedule to expire Jan. 1, 2020)	Monetary contributions to a qualifying child care facility or program to promote child care in Colorado for childred aged 12 or under; in-kind contributions are not eligible for credit	50% of the total qualifying contribution up to $100,000 or the taxpayers actual tax liability, whichever is less; excess credit can be carried forward for up to five years	Colo. Rev. Stat. Ann. § 39-22-121
Colorado	Credit for donation to food banks (This credit is scheduled to expire Jan. 1, 2020, and the credit is repealed effective Jan. 1, 2025)	Food donated to hunger relief charitable organizations; the credit may not be claimed by taxpayers who have claimed the corporate tax credit for crop or livestock contributions or who claim a deduction for the food donation as permitted under state law	25% of the wholesale market price or 20% of the most recent sale price, not to xceed $5,000; excess credit may be carried forward for up to five years	Colo. Rev. Stat. Ann. § 39-22-536

State	Title of Credit	Description	Amount of Credit	Statute
Colorado	Credit for contributions to enterprise zone administrators	Monetary or in-kind contribution to implement the economic development plan for an enterprise zone to the designated enterprise zone administrator or to a program or organization certified to receive contributions by the zone administrator; no certification is required if the contribution is less than $250	25% of the total value of the contribution as certified by the zone administrator up to $100,000 or the total income tax due, whichever is less; in-kind contributions cannot exceed 50% of the total credit claimed, i.e. the credit for in-kind contributions is no more than 12.5% of the value of the contribution up to a maximum credit of $50,000; excess credits can be carried forward for up to five years	Colo. Rev. Stat. Ann. § 39-30-103.5
Colorado	Gross conservation easement credit	Donations of all or part of the value of a perpetual conservation easment in gross on property they own to a governmental entity or charitable organization created at least two years before receipt of the conservation easment; the donation must be of a perpetual conservation easment in gross on real property located in Colorado and must qualify as a qualified conservation contribution	75% of the first $100,000 of the fair market value of the donated portion of the conservation easment in gross when created and 50% of all amounts of the donation over $100,000, up to a credit cap of $1.5 million per donation; if a charitable deduction is claimed for federal income tax purposes, the amound deducted from federal taxable income must be added back to federal taxable income to determine Colorado taxable income	Colo. Rev. Stat. Ann. § 39-22-522
Colorado	Water resource conservation and development (Not available as of Jan. 1, 2015; statute is repealed effective Dec. 31, 2024)	Subject to available funding, the Colorado Water Conservation Board can approve an instream flow incentive tax credit of water rights for income tax years begining Jan. 1, 2009 and ending before Jan. 1, 2015; the credit is only for permanent transfers of water rights on a finding that the proposed donation will preserve the environment; the credit is not avaiable for a water right that is for irrigation on land for which a conservation easement tax credit is claimed unless the water rights is specifically excluded from the terms of that easement	The amount of credit is determined by the Colorado Water Conservation board and may not exceed one-half the value of the water right proposed to be donated; the Board cannot issue a credit certificate if the aggregate sum of credits approved and not yet eligible to be taken exceeds $2 million; excess credit cannot be carried forward	Colo. Rev. Stat. Ann. § 39-22-533
Colorado	Repealed July 1, 2010 -- High technology scholarship program	Before the repeal -- Monetary contributions to the Colorado High Technology Scholarship Program; dontations o f stocks and bonds did not qualify	25% of the total monetary contributions up to 15% of the income taxes due for the year the credit was claimed; excess credit could not be carried forward	Colo. Rev. Stat. Ann. § 39-22-523

State	Title of Credit	Description	Amount of Credit	Statute
Delaware	Land & Historic Resource Conservation Tax Credit	Permanent gifts of land or interest in land to public agencies and qualified private non-profit charitable organizations for purposes of open space, natural resource, biodiversity conservation or historic preservation.	40% of the gift's appraised value; $50,000 per taxpayer; Statewide $1 million per year.	30 Del. Code Ann. § 1804
Delaware	Neighborhood Assistance Credit	Credit for providing "neighborhood assistance" and for making contribution to neighborhood organizations that provide neighborhood assistance in an impoverished area or for low and moderate income families.	50% of the amount contributed; may not exceed $50,000 per taxpayer, per year and no taxpayer can receive more than $100,000 in tax credits during any three-year period; capped at $500,000/year state-wide.	30 Del. Code Ann. § 2004
District of Columbia	Farm to food donation credit -- repealed effective April 7, 2017	Prior to the repeal -- credit for food commodity donations to a District of Columbia food bank or shelter recognized as a tax exempt organization.	Prior to the repeal -- 50% of the value of the contributions up to $2,500 per taxpayer; it the taxpayer elects to claim the credit, a charitable donation deduction will not be allowed; unused credit may be carried foward for five years	D.C. Code Ann. § 47-1806.14 (repealed)
Georgia	Credit for donation of real property for conservation purposes	Donation of fee-title lands or permanent conservation easements to a government entity or qualified organization.	25% of the fair market appraised value (or the difference between the fair market value and the amount paid to the donor); not to exceed $500,000; Statewide $30 million per year	Ga. Code Ann. § 48-7-29.12
Georgia	Tax credit for donations to public schools	Donations to the Public Education Innovation Fund Foundation for awarding grants to public schools in Georgia (effective January 2018)	The lower of the amount donated or $1,000 (single individual or HOH), $2,500 (married couple filing jointly), or $10,000 (individual who is a member of a limited liability company, a shareholder of a S corporation, or a partner in a partnership; but only on portion of the income on which the tax was actually paid by the individual member of the pass through entity). Capped at $5 million statewide per year.	Ga. Code Ann. § 48-7-29.21
Georgia	Georgia Qualified Education Expense Tax Credit	Eligible private citizens and corporations receive tax credits for donations to Student Scholarship Organizations (SSOs) who provide student scholarships to parents of eligible children who plan to attend private schools. Amount of credit can be carried forward for five years.	Corporations are limited to a credit worth 75 percent of the its total income tax liability. Individuals are limited to a credit worth up to $1,000 for an individual, $2,500 for a married couple, or $10,000 for an owner for a pass-through business entity. Capped at $58 million statewide per year.	Ga. Code Ann. § 48-7-29.16

State	Title of Credit	Description	Amount of Credit	Statute
Hawaii	School Repair and Maintenance Credit	Contributions of in-kind services for the repair and maintenance of public schools in Hawaii.	10% of the value of contributions of in-kind services to the Hawaii school repair and maintenance fund for that taxable year. Credit is limited to $4,000 in credits per taxpayer, and $250,000 in credits statewide.	Haw. Rev. Stat. §235-110.2(a)
Idaho	Tax credit for contributions to educational entities	Qualified cash contributions that taxpayers make to qualified educational entities	50% of the qualified contributions to qualified educational entities, capped at the lesser of $500 ($1,000 for joint returns) or 50% of the taxpayer's total income tax liability for the year. (For corporations, capped at lesser of $5,000 or 10% of total income or franchise tax liability).	Idaho Code §63-3029A; Idaho Admin. Rules §35.01.01.705(01)
Idaho	Tax credit for contributions to youth and rehabilitation facilities, centers for independent living, and nonprofit substance abuse centers	Cash or good donations a qualified youth or rehabilitation facility (or the facility's foundation) located in Idaho, to a qualified center for independent living in Idaho, or to a nonprofit substance abuse center licensed by the Idaho department of Health and Welfare	50% of the amount contributed, limited to the lesser of 20% of the taxpayer's Idaho tax liability or $100 per taxpayer ($200 on a joint return).	Idaho Code §63-3029C(1); Idaho Admin. Rules §35.01.01.730(02)
Illinois	Tax credit for affordable housing donations	Donation (money, securities, or real or personal property) under the Illinois Housing Development Act for the development of affordable housing in Illinois is entitled to a credit.	50% of the value of the donation	35 Ill. Comp. Stat. Ann. 5/214
Illinois	Invest in Kids Credit	A taxpayer who makes authorized contributions to scholarship granting organizations may take a credit against Illinois income taxes under the Invest in Kids Act for tax years beginning on or after January 1, 2018, and ending before January 1, 2023	75% of the total amount of qualified contributions made by the taxpayer during a taxable year, not to exceed a credit of $1 million per taxpayer. The aggregate amount of all credits the Illinois Department of Revenue (Department) may award in any calendar year may not exceed $75 million.	35 Ill. Comp. Stat. Ann. 5/224; 35 Ill. Comp Stat. Ann. 40/10
Indiana	Credit for contributions to Indiana institutions of higher education	Contributions to colleges located in Indiana; corporations or foundations organized and operated solely for the benefit of such colleges; and Associated Colleges of Indiana.	50% of contributions (not exceed $100 in the case of a single return or $200 in the case of a joint return). Corporations have credit capped at the lesser of 10% of total adjusted gross income or $1,000.	Ind. Code §6-3-3-5
Indiana	Credit for contributions to the 21st Century Scholars Program [repealed effective January 1, 2017]	Contributions made by the taxpayer during the tax year to Indiana's 21st century scholars program support fund	50% of contributions (not exceed $100 in the case of a single return or $200 in the case of a joint return). Corporations have credit capped at the lesser of 10% of total adjusted gross income or $1,000.	Ind. Code §6-3-3-5.1

State	Title of Credit	Description	Amount of Credit	Statute
Indiana	School Scholarship Tax Credit	Donations to Scholarship Granting Organizations that provide vouchers for low-income students to attend private schools	Tax credit worth 50 percent of donation. Statewide limit $9.5 million in the state fiscal year beginning July 1, 2016, and ending June 30, 2017.	Ind. Code § 6-3.1-30.5-7
Indiana	Neighborhood assistance tax credit	A neighborhood assistance tax credit is available to a taxpayer that: (1) contributes to a tax-exempt "neighborhood organization" performing community services in an economically disadvantaged area; (2) that provides neighborhood assistance, job training, or education for individuals not employed by the taxpayer; (3) that provides community services or crime prevention services in an economically disadvantaged area; or (4) that provides community services, education or job training to individuals who are ex-offenders who have completed the individuals' criminal sentences or are serving a term of probation or parole	50% of the amount invested in the neighborhood assistance program (limited to $25,000)	Ind. Code §6-3.1-9-3
Indiana	Individual Development Account Credit	donations to Individual Development Account Fund	50% of the contribution, capped statewide at $200,000.	Ind. Code § 6-3.1-18-6
Iowa	Endow Iowa Tax Credit	Contributions made to an Endow Iowa qualified community foundation for a permanent endowment fund established to benefit a charitable cause in Iowa	25% of the gift. For each individual, capped at 5% of the statewide cap. Capped at $6 million per year statewide, plus a percentage of the tax imposed on the adjusted gross receipts from gambling games	Iowa Code § 15E.305
Iowa	Charitable Conservation Contribution Tax Credit	Donations of qualified real property for conservation purposes	50% of fair market value, capped at $100,000	Iowa Code § 422.11W
Iowa	School Tuition Organization Tax Credit	Contribution made by a taxpayer to a school tuition organization (STO)	65 percent of contribution amount	Iowa Code § 422.11S
Iowa	Farm to Food Donation Tax Credit	Donations of food commodities to Iowa food banks	15% of value, capped at $5,000	Iowa Code § 190B.104

State	Title of Credit	Description	Amount of Credit	Statute
Kansas	Capital Investment/Capital Company Investment	Aside from investment-related items, this credit includes: Credit for contributions to the Kansas Center for Entrepreneurship; and Credit for amounts contributed to a regional foundation [There is also a Credit for Investing in a Technology-Based Venture-Capital Corporation, which includes a possible credit for gifts, donations, or grants]	75% of the contribution amount; $50,000 cap per contributor for contributions to the Kansas Center for Entrepreneurship; there are also caps of approx. $2M for total credits in any one fiscal year	Kan. Stat. Ann. §74-99c02; Kan. Stat. Ann. §74-99c09(c)-(d); Kan. Stat. Ann. §74-50,154(a)-(e)
Kansas	Temporary Assistance to Families (TAF) Contribution Credit	For tax years prior to 2014, income tax credit for providing financial support to a person who would otherwise be eligible to receive Aid to Families with Dependent Children and who has entered into an agreement with the Secretary for Children and Families. After 2014, available to corporations only.	70% of the amount of financial assistance.	Kan. Stat. Ann. §79-32,200(e).
Kansas	Credit for contributions made to law enforcement training center (Repealed on and after 01/01/2013)	Until January 1, 2013, any business firm or individual that contributes, gifts or donates to the Kansas law enforcement training center to be used for providing programs and courses of instruction for full–time police officers and law enforcement officers designed to fulfill continuing education and training requirements will be allowed a credit against the tax imposed by the Kansas income tax act.	The credit amount cannot exceed 50% of the total amount contributed, gifted or donated during the taxable year.	Kan. Stat. Ann. §79-32,242
Kansas	Credits for contributions to state higher education infrastructure improvements and maintenance projects	Taxpayers making contributions to state higher education infrastructure improvements and maintenance projects are able to apply tax credits against their income tax. Taxpayers who make prescribed contributions to a community college located in Kansas for capital improvements, a technical college for deferred maintenance or the purchase of technology or equipment, or a postsecondary educational institution located in Kansas for deferred maintenance, are allowed a credit against their income tax.	The credit amount allowed cannot exceed 60% of the total amount contributed during the taxable year to a community or technical college and cannot exceed 50% to a postsecondary educational institution. After tax year 2008, contributions can be made for tax years 2009, 2010, 2011, and 2012 during the entire tax year.	Kan. Stat. Ann. §79-32,261(a)

State	Title of Credit	Description	Amount of Credit	Statute
Kansas	Individual Development Accounts	For tax years prior to 2013 and after 2014, a person or entity who contributes to an individual development account (IDA) reserve fund administered by a community-based organization may claim a refundable tax credit.	Up to 75% (prior to 1/1/11, 50%) of the contribution amount. Total tax credits to all taxpayers may not exceed $500,000 in any fiscal year.	Kan. Stat. Ann. §74-50,208
Kansas	Historic Property Preservation Credit	For taxable years beginning on or after December 31, 2006, and until June 2012, taxpayers that contribute, gift or donate at least $1,000 to a state-owned historic site or historic site owned or operated by a tax-exempt nonprofit organization are entitled to a refundable income tax credit.	The amount of the credit is equal to 50% of the contribution, gift or donation but not exceeding $2,500 for any one taxpayer in any one taxable year. The total amount of credits allowed in any one fiscal year must not exceed $200,000.	Kan. Stat. Ann. §79-32,211
Kansas	Center for Entrepeneurship Credit	Contributions to the Kansas Center for Entrepeneurship	75%, capped at $50,000 annually per taxpayer ($2 million statewide).	Kan. Stat. Ann. § 74-99c09
Kentucky	Agriculture or Husbandry Related Credits - Food donation credit	Applicable to taxable years beginning on or after January 1, 2014 and before January 1, 2018, a nonrefundable credit is available against the corporate income tax, the personal income tax and the limited liability entity tax to qualified taxpayers who donate, free of charge, edible agricultural products to a nonprofit food program operating in Kentucky.	The credit is equal to 10% of the value of the donated edible agricultural products.	Ky. Rev. Stat. Ann. §141.392
Kentucky	Endow Kentucky credit	Taxpayers who donate money to permanent endowment funds of qualified community foundations, county-specific component funds, or affiliate community foundations may claim a credit against the corporate or personal income taxes and the limited liability entity tax.	The nonrefundable credit will be equal to 20% of the value of the endowment gift provided by the taxpayer, not to exceed $10,000.	Ky. Rev. Stat. Ann. §141.438
Louisiana	Dedicated Research Investment Fund donations (repealed)	Before June 17, 2013, a tax credit could be claimed for a taxpayer's cash donation to the Dedicated Research Investment Fund if the initial donation was at least $200,000.	The credit was equal to 35% of the cash donation. Unused credit can be carried forward until it is fully used.	La. Rev. Stat. Ann. §51:2203

State	Title of Credit	Description	Amount of Credit	Statute
Louisiana	Donations, contributions, or sales below cost to certified community development corporations or financial institutions	Effective July 10, 2007 until August 15, 2010 , a tax credit is allowed in an amount equal to 25% of the amount donated, contributed, or represented by a sale below cost by the taxpayer to a certified community development corporation or a certified community development financial institution, as approved by the Department of Economic Development.	25% of the amount donated, contributed, or represented.	La. Rev. Stat. Ann. §47:6031
Louisiana	Credit for donation of high technology equipment	A taxpayer who contributes, donates, or sells tangible movable property to educational institutions, below cost, is allowed a credit against Louisiana personal income tax.	The credit is computed at the rate of 29% of the property's value, or in case of sale below cost, 29% of the difference in price received for tangible movable property by the taxpayer and the value of the property.	La. Rev. Stat. Ann. §47:37
Louisiana	Rebates (effective January 1, 2018, credits) for donations to school tuition organizations	Taxpayers who file Louisiana income tax returns can claim a rebate (effective January 1, 2018, a credit) for donations they make during the tax year to a school tuition organization (STO) that provides scholarships to qualified students to attend a qualified school.	The amount of the rebate (effective January 1, 2018, the credit) is equal to the amount of the taxpayer's donation used by a STO to fund a scholarship to a qualified student, excluding administrative costs. Effective for donations made on or after January 1, 2018, the rebate is converted to a nonrefundable income tax credit.	La. Rev. Stat. Ann. §47:6301
Louisiana	Family Responsibility Program	Individuals are allowed a credit against tax in an amount equal to 24% of amount contributed to family responsibility program under La. Rev. Stat. Ann. §46:449	24%, up to $144 per year or taxpayer's total tax liability.	La. Rev. Stat. Ann. §47:297(F)
Louisiana	Playground donations	Credit for cash, equipment, goods, or services donated to a qualified playground.	Equal to the lesser of $720 or .36 of the value of the cash, equipment, goods, or services donated. The total amount of the credits taken by any taxpayer during any taxable year must not exceed $1,000.	La. Rev. Stat. Ann. §47:6008
Maryland	Neighborhood and community assistance program	An individual or business entity can claim a credit against the income tax for contributions to neighborhood and community assistance projects.	The contributions to an approved project must be worth $500 or more in goods, money, or real property. The credit is 50% of the contributions to the Neighborhood and Community Assistance Program that are approved by the Department of Housing and Community Development. The credit cannot exceed the lesser of $250,000 or the total amount of the tax otherwise payable for the tax year.	Md. Code Ann. Tax-Gen. §10-704.6

State	Title of Credit	Description	Amount of Credit	Statute
Maryland	Qualified permanent endowment fund donations	Applicable to all taxable years beginning after December 31, 2014, a taxpayer can claim a credit against the state income tax equal to the amount of 25% of a proposed donation to a qualified permanent endowment fund at an eligible community foundation.	25% of the proposed donation value; the amount must be stated in the credit certificate issued by the Maryland Department of Housing and Community Development.	Md. Code Ann. Tax-Gen. §10-736
Maryland	Preservation and Conservation Easements	An individual or, applicable to all taxable years beginning after December 31, 2015, a pass-through entity, may claim a credit against the state income tax for an easement conveyed to the Maryland Environmental Trust or the Maryland Agricultural Land Preservation Foundation or the Department of Natural Resources for the purpose of preserving open space, natural resources, agriculture, forest land, watersheds, significant ecosystems, viewsheds, or historic properties.	For any taxable year, the credit may not exceed the lesser of the state income tax for that taxable year or $5,000.	Md. Code Ann. Tax-Gen. §10-723
Massachusetts	Tax credit for qualified donation of land to public or private conservation agency	Qualified donations of certified land to a public or private conservation agency.	Refundable income tax credit equal to 50% of the fair market value of the qualified donation, not exceeding $75,000.	Mass. Gen. L. Chapter 62 §6(p)
Massachusetts	Credit against taxes imposed for qualified donation of certified land to public or private conservation agency	A taxpayer making a qualified donation of certified land to a public or private conservation agency shall be allowed a refundable credit against the taxes imposed by this chapter.	The credit shall be equal to 50% of the fair market value of the qualified donation. The amount of the credit that may be claimed by a taxpayer for each qualified donation shall not exceed $75,000.	Mass. Gen. L. Chapter 63 §38AA
Massachusetts	Low-income housing tax credit	Effective for tax years beginning on or after January 1, 2017, the low-income housing credit is allowed against the personal income tax for real or personal property donated to a tax exempt nonprofit organization that has control over the purchase, construction, or rehabilitation of a qualified Massachusetts low-income housing project and that is a certified Massachusetts Community Development Corporation or Organization, or that is determined to have a history of successful development of affordable housing projects in Massachusetts.	The total tax credit available to a taxpayer for a qualified donation is equal to 50% of the donation's value as determined by the Department, which may be increased to not more than 65% if deemed necessary for the project's viability.	Mass. Gen. L. Chapter 62 §6 l(a); l(b)(4); l(c)(1); l(c)(3)

State	Title of Credit	Description	Amount of Credit	Statute
Michigan	Credit for automobiles donated for "Wheels to Work" programs	Until December 31, 2011, a taxpayer may claim a credit against the income tax equal to 50% of the fair market value of an automobile donated by the taxpayer to a qualified organization that intends to provide the automobile to a qualified recipient.	50% of FMV.	Mich. Comp. Laws Ann. §206.269
Michigan	Charitable contributions credit	Until December 31, 2011, a credit is allowed against a taxpayer's Michigan personal income tax liability for charitable contributions made to the following: (1) Michigan, under the Faxon-McNamee Art in Public Places Act, of an artwork created by the taxpayer for display in a public place; (2) the state Art in Public Places Fund; (3) a municipality in Michigan of an artwork created by the personal effort of the taxpayer for display in a public place; (4) either a municipality of Michigan or a nonprofit corporation affiliated with both a municipality and an art institute located in that municipality, of money or artwork, if for benefiting an art institute located in that municipality; (5) a public library; (6) a public broadcast station that is not affiliated with an institution of higher education located in Michigan; (7) an institution of higher learning in Michigan;	50% of the charitable contribution made to an eligible institution.	Mich. Comp. Laws Ann. §206.260

State	Title of Credit	Description	Amount of Credit	Statute
Michigan	Credit for contributions to community foundation	Until December 31, 2011, a taxpayer could claim a credit against the Michigan personal income tax for 50% of the amount contributed during the tax years to an endowment fund of a community foundation, up to $100 for taxpayers other than a resident estate or trust or $200 for a husband filing a joint return. For a resident estate or trust, the allowable credit could not exceed the lesser of 10% of the taxpayer's liability for the tax year before claiming this credit or $5,000. For a resident estate or trust, the credit amount could not have been deducted in arriving at federal taxable income.	50% of the amount contributed.	Mich. Comp. Laws Ann. §206.261
Michigan	Contributions to a homeless shelter, food kitchen, food bank, etc. (homeless credit)	Until December 31, 2011, a taxpayer could claim a credit against the Michigan personal income tax for 50% of the sum of the cash amount and, if the food items were contributed in conjunction with a program in which a vendor made a matching contribution of similar items, the value of those food items contributed during the tax year to a shelter for homeless persons, food kitchen, food bank, or other entity, the primary purpose of which was to provide overnight accommodation, food, or meals to persons who were indigent.	50% of the amount contributed.	Mich. Comp. Laws Ann. §206.261

State	Title of Credit	Description	Amount of Credit	Statute
Mississippi	Land Conservation Credit	an income tax credit for taxpayers who donate land or an interest in land for specific conservation purposes	The credit is 50% of the allowable transaction costs involved in the donation that were incurred during the tax year. Allowable transaction costs consist of appraisal costs and engineering, surveying, maintenance, monitoring, and legal fees, including document preparation, title review, and title insurance costs. The credit is limited to the lesser of: (1) $10,000 or (2) the tax liability for the year reduced by the sum of all other allowable credits except credits for tax payments. Any unused portion of the credit may be carried forward for 10 succeeding tax years. Further, there is a maximum limit on the utilization of the credit of $10,000 over the lifetime of the taxpayer.	Miss. Code Ann. §27-7-22.21
Missouri	Agricultural product utilization contributor tax credit	Taxpayers who contribute to the Missouri Agricultural and Small Business Development Authority are entitled to tax credits	100% of their contributions	Mo. Rev. Stat. §348.430(3) ; Mo. Rev. Stat. §348.430(4) ;Mo. Rev. Stat. §348.436
Missouri	Youth Opportunities Credit	Taxpayers that contribute property or money to certain public or private programs authorized by the department of economic development for youth opportunities and crime prevention are allowed a tax credit against personal income tax	30% of property contribution or 50% of monetary contribution. The credit, however, cannot exceed $200,000 per tax year, per taxpayer.	Mo. Rev. Stat. §135.460
Missouri	Residential Treatment Agency Credit	Taxpayers are allowed a credit against personal income tax for an eligible donation made to a qualified residential treatment agency.	50% of the amount of an eligible donation	Mo. Rev. Stat. §135.1150(2)(3) ; Mo. Rev. Stat. §135.1150(2)(5) ; Mo. Rev. Stat. §135.1150(3) ; Mo. Rev. Stat. §135.1150(6) ; Mo. Rev. Stat. §135.1150(8) ; Mo. Code Regs. 13 §35-100.010(1) ; Mo. Code Regs. 13 §35-100.010(2)(B) ; Mo. Code Regs. 13 §35-100.010(11)
Missouri	Champion for Children Tax Credit	Taxpayers are allowed a nonrefundable tax credit against personal income tax for verified contributions to a CASA, child advocacy center or crisis care center.	50% of verified contributions. The contribution must be at least $100. The minimum amount of the champion for children tax credit is $50.	Mo. Rev. Stat. §135.341(2) ; Mo. Rev. Stat. §135.341(5) , effective March 29, 2013.

State	Title of Credit	Description	Amount of Credit	Statute
Missouri	Developmental Disability Care Provider Tax Credit	Taxpayers are allowed a nonrefundable tax credit against individual income tax. An “eligible donation” is a donation, which may include cash, publicly-traded stocks and bonds and real estate, received from a taxpayer by an agency that is used solely to provide direct care services to children who are Missouri residents. The amount of the tax credit claimed must not exceed the amount of the taxpayer's state income tax liability in the tax year for which the credit is claimed.	50% of the amount of an eligible donation.	Mo. Rev. Stat. §135.1180(2)(3) ; Mo. Rev. Stat. §135.1180(3) ; Mo. Rev. Stat. §135.1180(5) ; Mo. Rev. Stat. §135.1180(7)
Missouri	Credit for Donations to Local Food Pantries	Taxpayers are allowed a credit against personal income tax for donations of cash or unexpired food to local food pantries	50% of the value of donations of cash or unexpired food to local food pantries, to the extent that such amounts that have been subtracted from federal taxable income are added back in the determination of Missouri taxable income, up to a maximum credit of $2,500 per taxpayer.	Mo. Rev. Stat. §135.647(2); [Mo. Rev. Stat. §135.647(3); Mo. Rev. Stat. §135.647(6)
Missouri	Maternity Home Credit	Taxpayers who donate at least $100 to a facility determined by the director of public safety as a maternity home are entitled to a credit against personal income tax	50% of the donation	Mo. Rev. Stat. §135.600(3) ; Mo. Rev. Stat. §135.600(4) ; Mo. Rev. Stat. §135.600(8)
Missouri	Pregnancy Resource Center Credit	Individual taxpayers, partners, shareholders in S corporations doing business in Missouri subject to personal income tax are entitled to a nonrefundable income tax credit against personal income tax for contributions made to qualified pregnancy resource centers	50% of contributions made	Mo. Rev. Stat. §135.630(1)(5) ; Mo. Rev. Stat. §135.630(2) ; Mo. Rev. Stat. §135.630(3) ; Mo. Code Regs. 13 §35-100.020(1) ; Mo. Code Regs. 13 §35-100.020(3) —Mo. Code Regs. 13 §35-100.020(6) ; Mo. Code Regs. 13 §35-100.020(12)(B)

State	Title of Credit	Description	Amount of Credit	Statute
Missouri	Donations to Shelters for Victims of Domestic Violence	Taxpayers who donate at least $100 to a facility determined by the director of public safety as a shelter for victims of domestic violence are entitled to a credit against personal income tax;The credit claimed, however, must not exceed the taxpayer's state tax liability for the year that the credit is claimed and the maximum credit that may be claimed is $50,000 per taxable year. Any unused credit may be carried forward for four years. The contribution to a shelter is defined to include cash, stocks, bonds or other marketable securities or real property	50% of the donation	Mo. Rev. Stat. §135.550 ; Mo. Code Regs. 13 §40-79.010(3) —Mo. Code Regs. 13 §40-79.010(6) ; Mo. Code Regs. 13 §40-79.010(10)(B)
Missouri	Innovation Campus Tax Credit	A taxpayer is allowed a nonrefundable tax credit for donations to innovation campuses to be used solely for projects that advance learning in the areas of science, technology, engineering, and mathematics. Innovation campus is an education partnership between a Missouri High school, a 4-year higher education institution, a business, and a 2-year higher education institution.	50% of the amount of an eligible donation	Mo. Rev. Stat. §620.2600(2)(4) ; Mo. Rev. Stat. §620.2600(3) ; Mo. Rev. Stat. §620.2600(7)
Montana	College Contribution Credit	A taxpayer is allowed a tax credit in an amount equal to 10% of the aggregate amount of charitable contributions made by the taxpayer during the year to a foundation or a general endowment fund of: (1) the Montana university system or any unit or campus of the Montana university system; (2) a Montana private college; (3) a Montana community college that is part of a community college district; or (4) a tribal college located in Montana.	10% of the aggregate amount of charitable contributions made by the taxpayer during the year to a foundation or a general endowment fund of: (1) the Montana university system or any unit or campus of the Montana university system; (2) a Montana private college; (3) a Montana community college that is part of a community college district; or (4) a tribal college located in Montana. The maximum credit claimed is equal to $500 or the Montana personal income tax liability, whichever is less	Mont. Code Ann. §15-30-2326(1)

State	Title of Credit	Description	Amount of Credit	Statute
Montana	Credit for Contributions to Qualified Endowments	Taxpayers are entitled to a credit for contributions to a qualified endowment through a planned giving program. The credit expires December 31, 2019.	A taxpayer is allowed a tax credit against income taxes in an amount equal to 40% of the present value of the aggregate amount of the charitable gift portion of a planned gift made by the individual taxpayer during the year to any qualified endowment. The maximum credit that may be claimed by a taxpayer for contributions made from all sources in a year is $10,000.	Mont. Code Ann. §15-30-2328
Montana	Credit for Providing Access to State Lands	Under the “credit for unlocking state lands program,” Montana allows a credit to taxpayers who provide “qualified access to state land," meaning an access or corridor established through a taxpayer's property to a parcel of public land for recreational use and certified by the Department of Fish, Wildlife, and Parks	The amount of the credit is $750 ($500 prior to January 1, 2016) for each qualified access to state land that is provided. The maximum credit that a taxpayer may claim in a year under this provision is $3,000 ($2,000 prior to January 1, 2016).	Mont. Code Ann. §15-30-2380
Montana	Innovative Educational Program Credit	Donations to educational improvement accounts, which provide supplemental funding to public schools for "innovative educational programs and technology deficiencies"	100%; capped at $150 annually per taxpayer ($3 million statewide)	Mont. Code Ann. § 15-30-3110
Montana	Tax Credit Scholarship Program	Donations to school scholarship organizations that fund private school K-12 scholarship	100%; capped at $150 annually per taxpayer ($3 million statewide cap in 2016, subject to change in later years)	Mont. Code Ann. § 15-30-3111
Nebraska	Community Development Assistance Act Credit	Under the Community Development Assistance Act (CDDA), a credit is available against the corporate income tax, personal income tax, financial institutions franchise tax and insurance tax for contributions to a community betterment program in community development areas, which are areas that the Department of Economic Development has certified as an area of chronic economic distress. These programs are administered by nonprofit community service organizations, business development organizations, or local government units. Eligible programs involve such activities as job training, crime prevention, medical services and recreational activities	The maximum credit is 40% of the amount it contributed to an approved program during its tax year. Credits are not allowed for activities which are a normal part of a taxpayer's business	Neb. Rev. Stat. §13-203

State	Title of Credit	Description	Amount of Credit	Statute
Nebraska	Credit for Volunteer Responders	Each city, village, or rural or suburban fire protection district must file with the Department of Revenue a certified list of those volunteers who have qualified as active emergency responders, active rescue squad members, or active volunteer firefighters for the immediately preceding calendar year of service no later than February 15. Effective for taxable years beginning on or after January 1, 2017, each volunteer on this list will receive a refundable $250 credit against income tax imposed beginning with the second taxable year in which the volunteer is included on the list.	$250	Neb. Rev. Stat. §77-3105 ;Neb. Rev. Stat. §77-2715.07(2)(d)
New York	The New York Conservation Easement Tax Credit	Donation of conservation easement	25% of the school district, county, and town real estate tax paid on the easement property (village and city taxes are not used to calculate the credit and special assessments are also not considered), available each year. Limited to $5,000 per year.	N.Y. Tax Law § 606(kk) (McKinney)
North Carolina	Nonitemizer charitable contributions tax credit (repealed 2014)	taxpayers electing the standard deduction under N.C. Gen. Stat. §105-134.6(a2) are allowed a credit equal to 7% of the taxpayer's excess charitable contributions. The taxpayer's excess charitable contributions are the amount by which the taxpayer's charitable contributions for the taxable year that would have been deductible under IRC §170 if the taxpayer had not elected the standard deduction exceed 2% of the taxpayer's adjusted gross income.	7% of the taxpayer's excess charitable contributions	N.C. Gen. Stat. §105-151.26

State	Title of Credit	Description	Amount of Credit	Statute
North Carolina	Real Property Donated for Public or Conservation Purposes (repealed 2014)	For tax years prior to 2014, an individual or pass-through entity that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, forestland or farmland conservation, watershed protection, conservation of natural areas, conservation of natural or scenic river areas, conservation of predominantly natural parkland, or historic landscape conservation is allowed a credit against the personal income tax.	For tax years beginning on or after January 1, 2007, the aggregate amount of credit allowed to an individual in a taxable year for one or more qualified donations, whether made directly or indirectly as owner of a pass-through entity, may not exceed $250,000. In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed may be claimed only if the spouses file a joint return. The aggregate amount of credit allowed to a husband and wife filing a joint tax return may not exceed $500,000.	N.C. Gen. Stat. §105-151.12(a) , repealed effective for taxable years beginning on or after January 1, 2014
North Carolina	Oyster Shell Tax Credit (repealed 2014)	Effective for tax years beginning on or after January 1, 2006 and expiring for tax years beginning on or after January 1, 2014, taxpayers who donate oyster shells to the Division of Marine Fisheries of the Department of Environment and Natural Resources are eligible for a tax credit against personal income tax	$1 per bushel of oyster shells donated	N.C. Gen. Stat. §105-151.30(a) ; N.C. Gen. Stat. §105-151.30(f)
North Carolina	Donatation of Gleaned Crops (repealed 2014)	For tax years prior to 2014, a grower who donates unharvested crops located in North Carolina to a qualifying charitable organization is allowed a credit of 10% of the season average price of the crop as determined by the North Carolina Crop and Livestock Reporting Service or the average price of the crop in the nearest local market for the month in which the crop is gleaned if the Crop and Livestock Reporting Service does not determine the season average price.	10% of the season average price of the crop	N.C. Gen. Stat. §105-151.14(a) , repealed effective for taxable years beginning on or after January 1, 2014

State	Title of Credit	Description	Amount of Credit	Statute
North Dakota	Qualified Endowment Credit	A credit is allowed for making a charitable gift to a qualified endowment.	The credit is equal to 40% of the charitable gift. The maximum credit that may be claimed for charitable gifts made in a taxable year is $10,000 for an individual or $20,000 for married individuals filing a joint return. The credit may not exceed the taxpayer's income tax liability. .A charitable gift used as the basis for claiming this credit may not be used as the basis for the claim of a credit under any other provision.	N.D. Cent. Code §57-38-01.21(2)
Oklahoma	Energy Conservation Assistance Fund credit (repealed)	Any person or corporation may contribute monies to the Energy Conservation Assistance Fund.	Income tax credit against the state personal or corporate income tax liability of fifty percent (50%) of the amount contributed to the fund for the taxable year in which it was made.	Okla. Stat. Revenue & Taxation 68 § 2357.6 (2010) Repealed by Laws 2013, c. 363, § 4, eff. January 1, 2014)
Oklahoma	Credit for contributions to scholarship-granting organizations	Contributions made by individuals or corporations to a scholarship-granting organization	50% of the contribution, capped at $1,000 ($2,000 for joint filers). If total annual credits exceed $1.75 million (either for individuals and married filers or for all other filers), the credit allowed will be adjusted to a percentage of total credits earned.	Okla. Stat. § 2357.206(B)
Oklahoma	Credit for contributions to educational improvement grant organizations	Contributions by individuals or corporations to an educational improvement grant organization	50% of the contribution, capped at $1,000 ($2,000 for joint filers). If total credits claimed annually exceed $1.5 million annually, the credit allowed will be adjusted to a share of $1.5 million.	Okla. Stat. § 2357.206(C)
Oregon	Credit for contributions to Trust for Cultural Development Account	A credit is available for amounts contributed to the Trust for Cultural Development Account.	The credit is 100% of contributions to the Account that are matched by an equal contribution to an Oregon cultural organization. The credit is limited to the lesser of the taxpayer's tax liability or $500 ($1000 for joint filers).	Or. Rev. Stat. §315.675
Oregon	University research tax incentives	State public universities are authorized to establish venture development funds to provide capital grants for entrepreneurial programs and "proof of concept" funding for commercially viable products and services.	the total amount of the credit allowed to a taxpayer must equal 60% of the contribution amount stated on the tax credit certificate, but may not exceed $600,000. The credit allowed under this section in any one tax year may not exceed the tax liability of the taxpayer for the tax year.	Or. Rev. Stat. §315.521
Oregon	Oregon Capital Corporation Investment Credit (repealed)	A taxpayer is allowed a credit for 20% of direct cash investment in the Oregon Capital Corporation.	A taxpayer is allowed a credit for 20% of direct cash investment in the Oregon Capital Corporation. Not more than 50% of the tax credit can be claimed in the tax year in which the investment is made. In any one year, the tax credit cannot exceed the taxpayer's tax liability.	Or. Rev. Stat. §315.504. Repealed Jan. 1, 2006.

State	Title of Credit	Description	Amount of Credit	Statute
Oregon	Child Care Contribution Tax Credit	Contribution to the Child Care Contribution Tax credit program, used to financially support improvements for child care businesses.	50% of contribution (capped statewide at $500,000)	Or. Rev. Stat. § 315.213.
Oregon	Credit for payments made to qualified scholarship programs	Credit is available to Employers that fund scholarship programs for employees and dependents	50% of disbursements from the employer's scholarship program (capped at $50,000 per employee,	Or. Rev. Stat. § 315.237.
Rhode Island	Credit for Contributions to Scholarship Organizations	Rhode Island provides a credit for donations to Scholarship Granting Organizations (SGOs), nonprofits that provide private school scholarships.	Tax credits are worth 75 percent of the contribution, or 90 percent if donated for two consecutive years and the second year's donation is worth at least 80 percent of the first year's donation. Each donor can receive only $100,000 in tax credits each year, and cannot use surplus donations in one year to generate tax credits in future years.	R.I. Gen. Laws § 44-62-1
South Carolina	Credit for qualified contribution to Industry Partnership Fund.	Qualified contribution by taxpayer (individual or corporate) to the Industry Partnership Fund at the South Carolina Research Authority (SCRA) or an SCRA-designated affiliate.	100% of a qualified contribution, limited to $2 million annually per taxpayer ($6 million state-wide).	S.C. Code Ann. § 12-6-3585
South Carolina	Credit for qualified contribution to South Carolina Hydrogen Infrastructure Development Fund [for taxable years beginning after 2007 and before 2012]	Qualified contribution by taxpayer (individual or corporate) to the South Carolina Hydrogen Infrastructure Development Fund.	25% of a qualified contribution.	S.C. Code Ann. § 12-6-3630
South Carolina	Qualified Conservation Contribution Credit	Donations of land or qualified property interests (conservation easement) for purposes of conservation	25% of the total amount of the federal deduction claimed; capped at $250/acre and $52,500 per taxpayer per year (when combined with all other tax credits).	S.C. Code Ann. § 12-6-3515
South Carolina	Educational Credit for Exceptional Needs Children	Individuals and businesses are awarded a tax credit for contributions to nonprofit scholarship funding organizations dedicated to providing scholarships to children with exceptional needs	Taxpayers can claim a credit up to 60 percent of their total tax liability for a given year; annual statewide cap of $11 million.	Proviso 109.11, State Fiscal Year 2017-2018 Appropriations Act, 2017 S.C. Acts 97.
Utah	Credit for ABLE account contributions [effective for tax years starting on or after January 1, 2016]	Contributions by individuals, estates and trusts to accounts set up under the Achieving a Better Life Experience (ABLE) Savings Account program, which allows states to establish tax-advantaged savings accounts for certain individuals with disabilities for their disability-related expenses.	5% of contributions	Utah Code Ann. § 59-10-1035

State	Title of Credit	Description	Amount of Credit	Statute
Utah	Qualified sheltered workshop cash contribution credit	Contributions made by claimants, estates or trusts to a qualified nonprofit rehabilitation sheltered workshop facility for the handicapped operating in Utah and certified by the Department of Human Services	50% of contributions, to maximum of $200/year.	Utah Code Ann. § 59-10-1004
Virginia	Land Preservation Tax Credit	Donations of conservation land or easements conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation	40% of fair market value of the donation, capped at $100,000 per taxpayer annually, and $75 million statewide.	Va. Code Ann. § 58.1-512
Virginia	Food crop donation tax credit	Donations of food crops grown by the taxpayer (whether individual or corporate) in Virginia to a nonprofit food bank	30% of the fair market value of the food crops, capped at $5,000 per taxpayer annually, and $250,000 statewide.	Va. Code Ann. §58.1-439.12:12(B)
Virginia	Neighborhood Assistance Act Tax Credit	Monetary donation or a donation of marketable securities to an approved neighborhood organization	65% of the value of the donation; the minimum donation is $500 and the maximum donation for which a credit can be obtained is $125,000 per year. No more than $500,000 in tax credits may be approved per year.	Va. Code Ann. § 58.1-439.24
Virginia	Education Improvement Scholarships Tax Credit	Donations of cash or marketable securities to approved scholarship foundations that provide scholarships to eligible students for non-public schools	65% of the donation. For individuals, donation must be at least $500, and no credit will be provided for donations above $125,000.	Va. Code Ann. § 58.1-439.26
West Virginia	Neighborhood Investment Program Tax Credit.	Cash, personal or real property, or stock contributions (by an individual or business) to a qualified charitable community-based organization that establishes projects to assist neighborhoods and local communities through such services as health care, counseling, emergency assistance, crime prevention, education, housing, job training and physical and environmental improvements.	Up to 50% of the taxpayer's eligible contribution (valued at fair market value for personal or real property or stock, 75% for in-kind professional services). Capped at $100,000 per taxpayer annually, and $3 million statewide.	W. Va. Code §§ 11-13J-1-12.