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INSIGHT: Florida Corporate Income Tax Credits Help Recipients and Taxpayers Through New Law

BY FRENCH BROWN

Since 2001, Florida has allowed a dollar-for-dollar tax credit when a corporation chooses to redirect its corporate income taxes as a donation to help fund scholarships for lower-income students. This extremely successful program is known as the Florida Tax Credit (FTC) Scholarship Program. Corporate income taxpayers contribute more than $150 million through the program each year. Through the corporate income tax credits, plus tax-credited contributions from five other eligible tax types, more than 100,000 students have received a K-12 scholarship this school year.

In 2018, the Florida Legislature passed three additional improvements to incentivize the program for corporations.

Allowing Credits for Contributions Occurring After the Taxpayer's Fiscal Year End

Historically, contributions made and tax credits generated under the FTC Scholarship Program had to occur during the taxpayer's fiscal year. This requirement forced a taxpayer to project and estimate its annual liability months before its tax return was due. This estimate created potential risks of over- or under-projection and made it difficult for corporations to fully participate in the program by contributing all of its liability.

However, the 2018 Florida legislature amended the corporate income tax credit to allow contributions to occur **anytime** before the date the taxpayer is required to file a return, including during the time of an extension, so long as the taxpayer timely requesting an extension to file separately complied will all provisions regarding such extension and tentative tax payments. This change provides a significant benefit to taxpayers participating in the program by allowing them the time necessary to entirely understand the company's liability before making a contribution and earning the tax credits.

Enhancing and Streamlining the Ability for Taxpayers to Carry Forward Credits

Prior to 2018, the FTC Scholarship Program allowed credits earned but not fully used by a corporation because of insufficient tax liability to be carried forward for a period not to exceed five years. In addition, taxpayers were statutorily required to first apply to the Florida Department of Revenue for approval to carry forward unused credits; although, the department had never denied such an application.

The 2018 legislation removed the burden of requiring the taxpayer to first apply to the department before carrying forward unused credits. More importantly, the legislation extended the carryforward period from five

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to 10 years to ensure more than ample time that credits earned after 2018 would never be abandoned.

Applying Contributions Against Any Estimated Taxes Due, Even If the Contribution Occurs After the Due Date

Previously, Florida required all corporations to pay estimated taxes during the tax year. Failure to pay adequate estimated taxes would result in the taxpayer being assessed interest and penalty, *both* at the amount of 12 percent per year. The current law provides two safe harbors to avoid the underpayment penalties and interest.

- If the amount of estimated tax paid equals or exceeds 90 percent of the tax finally due for the taxable year.
- If the amount of estimated tax paid equals or exceeds the amount of tax due in the preceding taxable year computed with comparable tax rates.

Prior to 2018, taxpayers participating in the FTC Scholarship Program were required to make contributions *before* each estimated tax payment was due in order for the credits to count towards the taxpayer's safe harbor for amounts due in the preceding taxable year.

2017 Example: A calendar year taxpayer remitted four estimated payments of $10,000 each on May 31, 2017; June 30, 2017; Sept. 30, 2017; and Dec. 31, 2017. The taxpayer also made four $10,000 contributions and was issued credits on May 31, 2017; June 30, 2017; Sept. 30, 2017; and Dec. 31, 2017. For the prior tax year ending Dec. 31, 2016, corporate income tax of $80,000 was due. Here, the taxpayer has met the prior year exception for all four installments through a combination of estimated payments ($10,000 for each period) and scholarship tax credits ($10,000 for each period) so that estimated tax penalty and interest will not apply to any of the four installments.

However, the 2018 legislation expanded the safe harbor for taxpayers involved in the FTC Scholarship Program. Now, *any* contribution made to the program becomes a credit against the *first* estimated tax payment, and any remaining amount is carried forward to reduce the remaining estimated tax payments. Combined with the additional time to make a contribution as discussed above, this creates a substantial benefit for corporations participating in the program. Through these changes, a corporation redirecting all of its corporate income tax through the program can maximize the time value of money. **No longer are participating corporations required to pay estimated taxes during the tax year with adequate planning.**

2018 Example: A calendar year taxpayer remitted **no** estimated payments each on May 31, 2018; June 30, 2018; Sept. 30, 2018; and Dec. 31, 2018. The taxpayer made a $80,000 contribution and was issued credits on March 1, 2019. For the prior tax year ending Dec. 31, 2017, corporate income tax of $80,000 was due. Here, the taxpayer has met the prior year exception for all four installments based on the $80,000 scholarship tax credit paid before the return and return extension were due. Estimated tax penalty and interest will not apply to any of the four installments.

These changes allow corporations to maximize the time-value of money while providing valuable opportunities for lower-income students to obtain a better education.

For more information about the FTC Program, visit the Florida Department of Revenue website or view the Florida Department of Education quarterly reports regarding the program.

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