

Robyn A. Crittenden
State Revenue Commissioner



Frank M. O'Connell
Deputy State Revenue Commissioner

Georgia Department of Revenue
1800 Century Boulevard, NE | Atlanta, Georgia 30345

NOTICE IT-2022-5

RE: Proposal to adopt Rule 560-7-8-.69 Qualified Law Enforcement Donation Credit.

TO ALL INTERESTED PERSONS AND PARTIES:

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to adopt Rule 560-7-8-.69.

Attached to this notice are an exact copy and synopsis of the proposed Rule. The proposed Rule is being adopted under the authority of O.C.G.A. §§ 48-2-12 and 48-7-29.25.

The Department of Revenue will consider the Adoption of the above Rule at a regulation hearing held at 1800 Century Boulevard, NE, Atlanta, GA 30345, Room L300, on November 14, 2022, at 10 a.m. All attendees will be required to sign in upon arrival.

The Department must receive all comments regarding the above-referenced Rule from interested persons and parties no later than 10 a.m. on November 14, 2022. Electronic comments must be sent to regcomments@dor.ga.gov. Facsimile comments must be sent to (770) 342-3157. **Please reference "Notice Number IT-2022-5" on all comments.**

Dated: 10/13/22


Robyn A. Crittenden
State Revenue Commissioner

SYNOPSIS

GEORGIA DEPARTMENT OF REVENUE INCOME TAX DIVISION

CHAPTER 560-7-8 RETURNS AND COLLECTIONS

560-7-8-.69 Qualified Law Enforcement Donation Credit

The purpose of proposed Rule 560-7-8-.69 is to provide guidance concerning the implementation and administration of the qualified law enforcement donation credit under O.C.G.A. § 48-7-29.25. This credit was added by Senate Bill 361 from the 2021 Session of the General Assembly. Rule 560-7-8-.69 is being adopted to clarify certain provisions in O.C.G.A. § 48-7-29.25.

- Rule 560-7-8-.69 is being adopted to provide guidance concerning the implementation and administration of the qualified law enforcement donation credit. Specific changes are denoted in the attached Rule.
- Paragraph (1) provides the purpose of the regulation.
- Paragraph (2) provides the definitions.
- Paragraph (3) provides the certification process for law enforcement foundations.
- Paragraph (4) provides the process of law enforcement foundation designation changes by the local law enforcement unit.
- Paragraph (5) specifies the credit cap per year.
- Paragraph (6) specifies the individual law enforcement foundation credit limitation.
- Paragraph (7) provides the credit amount and limitations based on taxpayer type.
- Paragraph (8) provides the Form 990 submission requirement.
- Paragraph (9) specifies the requirements for the contributions report.
- Paragraph (10) specifies the information to be posted on the Department's website.
- Paragraph (11) defines confidential taxpayer information.
- Paragraph (12) provides the process for preapproval of the contribution.
- Paragraph (13) specifies the process for confirming the contribution.
- Paragraph (14) specifies how the credit is claimed.
- Paragraph (15) specifies the process of claiming the credit electronically.
- Paragraph (16) provides the carry forward for the credit.

- Paragraph (17) specifies the rules for claiming the contribution as a deduction and as a credit.
- Paragraph (18) specifies the information to be posted on the qualified law enforcement foundation's website.
- Paragraph (19) specifies the rules designating the contribution.
- Paragraph (20) specifies the rules for taxpayers who contract with a qualified law enforcement foundation.
- Paragraph (21) specifies the rules for soliciting contributions.
- Paragraph (22) specifies the procedures for failures to comply with the Code section and the regulations.
- Paragraph (23) provides the effective date of the regulation.

**RULES
OF
DEPARTMENT OF REVENUE
INCOME TAX DIVISION**

**CHAPTER 560-7-8
RETURNS AND COLLECTIONS**

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560-7-8-.69 Qualified Law Enforcement Donation Credit

560-7-8-.69 Qualified Law Enforcement Donation Credit

(1) Purpose. The purpose of this regulation is to provide guidance concerning the administration of the tax credit under O.C.G.A. § 48-7-29.25.

(2) Definitions for purposes of O.C.G.A. § 48-7-29.25 and this regulation.

(a) The terms "qualified contributions", "qualified expenditures", "law enforcement foundation", and "local law enforcement unit" shall have the same meaning as in O.C.G.A. § 48-7-29.25.

(b) "Letter of Authorization" means the letter from a local law enforcement unit that designates a law enforcement foundation as its sole and exclusive law enforcement foundation and that is signed by the chief of police, law enforcement head or sheriff of the local law enforcement unit.

(c) "Form 990" means the annual information returns and electronic notices of the Federal Form 990 Series including Form 990,

34 Form 990-EZ, and Form 990-N.

35
36 (d) "Contributions Report" means the report detailing the con-
37 tributions received that must be prepared on a calendar year basis
38 and submitted to the Department of Revenue by May 15th of the
39 year following the calendar year.

40
41 **(3) Certification for Qualified Law Enforcement Founda-**
42 **tion.** The law enforcement foundation must apply for certification
43 as a qualified law enforcement foundation and must submit Form
44 IT-LEF to the Department through the Georgia Tax Center. The
45 Department will not process any Form IT-LEF that is submitted or
46 filed in any other manner.

47
48 (a) Application. The law enforcement foundation must elec-
49 tronically attest on Form IT-LEF to the Department through the
50 Georgia Tax Center that:

51
52 1. An authorized person is submitting Form IT-LEF on behalf
53 of the law enforcement foundation;

54
55 2. A single local law enforcement unit has designated the ap-
56 plicant as its sole and exclusive qualified law enforcement founda-
57 tion;

58
59 3. The law enforcement foundation agrees to fully comply with
60 the terms and conditions under O.C.G.A. § 48-7-29.25; and

61
62 4. The law enforcement foundation understands that to know-
63 ingly prepare or present a document that is false, fictitious, or
64 fraudulent in any matter within the jurisdiction of the Department
65 of Revenue is a felony under O.C.G.A. § 16-10-20.

66

67 (b) Letter of Authorization. The law enforcement foundation
68 must submit the Letter of Authorization along with Form IT-LEF
69 to the Department through the Georgia Tax Center. The Letter of
70 Authorization must state:

71
72 1. The name of the local law enforcement unit;

73
74 2. The type of agency of the local law enforcement unit;

75
76 3. The address of the local law enforcement unit;

77
78 4. The federal employer identification number of the local law
79 enforcement unit;

80
81 5. The name of the law enforcement foundation that is desig-
82 ated by the local law enforcement unit to be its sole and exclusive
83 law enforcement foundation;

84
85 6. The federal employer identification number of the law en-
86 forcement foundation that is designated by the local law enforce-
87 ment unit to be its sole and exclusive law enforcement foundation;

88
89 7. The address of the law enforcement foundation that is desig-
90 nated by the local law enforcement unit to be its sole and exclusive
91 law enforcement foundation;

92
93 8. The name of the previous law enforcement foundation that
94 was designated by the local law enforcement unit to be its sole and
95 exclusive law enforcement foundation (if applicable);

96
97 9. The federal employer identification number of the previous
98 law enforcement foundation that was designated by the local law
99 enforcement unit to be its sole and exclusive law enforcement

100 foundation (if applicable);
101

102 (c) Application for Certification Period. The first period to
103 submit applications for certification as a qualified law enforcement
104 foundation begins on October 12, 2022 and ends on December 11,
105 2022. After the first period, the period to submit applications for
106 certification as a qualified law enforcement foundation begins on
107 October 1 and ends on November 30 of each year.
108

109 (d) Notice. The Department will notify the law enforcement
110 foundation of the approval or denial of certification within thirty
111 (30) days from the date the Form IT-LEF was submitted through
112 the Georgia Tax Center.
113

114 (4) **Law Enforcement Foundation Designation Change.** If a
115 qualified law enforcement foundation that was designated by a lo-
116 cal law enforcement unit as the sole and exclusive foundation for
117 the local law enforcement unit is no longer designated as such by
118 the local law enforcement unit, then the qualified law enforcement
119 foundation or the local law enforcement unit shall notify the De-
120 partment in writing. The law enforcement foundation shall be re-
121 moved from the Department of Revenue's list of approved quali-
122 fied law enforcement foundations and the Department shall not
123 preapprove any future contributions to such law enforcement foun-
124 dation. If a new law enforcement foundation is designated by such
125 local law enforcement unit as the new sole and exclusive founda-
126 tion for the local law enforcement unit, then the new law enforce-
127 ment foundation shall apply for certification in the next application
128 for certification period.
129

130 (5) **Credit Cap.** In no event shall the aggregate amount of tax
131 credits allowed under O.C.G.A. § 48-7-29.25 exceed \$75 million
132 per taxable year for taxable years beginning on or after January 1,

2023 and ending on or before December 31, 2027, unless otherwise provided by law.

(6) Per Individual Law Enforcement Foundation Limitation. For each calendar year of the credit, no more than \$3 million of credit shall be preapproved for any individual law enforcement foundation. On the day and time any Form IT-QLED-TP1 is received for a calendar year that causes the per individual law enforcement foundation limitation in this paragraph to be reached, then any subsequent applicants for such individual law enforcement foundation shall be denied. There shall be no proration based on the date an application is received. The Department shall notify such individual law enforcement foundation if the \$3 million limitation is reached.

(a) If a taxpayer is denied preapproval for this tax credit by the Department due to the per individual law enforcement foundation limitation in this paragraph, the taxpayer may reapply for preapproval and list a law enforcement foundation from the Department's list of approved law enforcement foundations that has not reached the per individual law enforcement foundation limitation. For purposes of priority in case the credit cap is reached, the taxpayer's date of re-application will govern.

(b) No provision in O.C.G.A. § 48-7-29.25 or in this regulation shall be construed to limit the ability of a local law enforcement unit to receive gifts, grants, and other benefits from any source allowed by law; provided, however, that no local law enforcement unit shall accept or receive more than \$3 million in contributions made under O.C.G.A. § 48-7-29.25 and this regulation in any calendar year.

(7) Credit Amount. Subject to the aggregate limit provided in

166 paragraph (5) and the per individual law enforcement foundation
167 limitation provided in paragraph (6), for taxable years beginning
168 on January 1, 2023, and ending on or before December 31, 2027,
169 the amount of qualified law enforcement donation credit allowed a
170 taxpayer shall be as follows:

171

172 (a) For an individual taxpayer or head of household, the credit
173 amount shall not exceed the actual amount contributed or \$5,000,
174 whichever is less.

175

176 (b) For an individual taxpayer filing married filing separate, the
177 credit amount shall not exceed the actual amount contributed or
178 \$5,000, whichever is less.

179

180 (c) For individual taxpayers filing married filing joint, the cred-
181 it amount shall not exceed the actual amount contributed or
182 \$10,000, whichever is less.

183

184 1. Example: Taxpayers, married couple filing joint, request
185 preapproval for the qualified law enforcement donation credit for
186 calendar year 2023 by electronically submitting Form IT-QLED-
187 TP1 through the Georgia Tax Center. On Form IT-QLED-TP1,
188 Taxpayers' intended contribution for 2023 is \$7,100, therefore the
189 Department preapproves Taxpayers for \$7,100. Taxpayers make a
190 \$3,000 donation to the qualified law enforcement foundation with-
191 in 60 days of receiving preapproval from the Department and be-
192 fore the end of 2023 (this is the only amount contributed by tax-
193 payers to a qualified law enforcement foundation in 2023). When
194 Taxpayers file their 2023 Georgia income tax return, Taxpayers
195 can only claim \$3,000 qualified law enforcement donation credit
196 (which is the actual amount contributed), and the extra \$4,100 that
197 was preapproved but not contributed cannot be claimed by Tax-
198 payers and cannot be carried forward. Any amount of the \$3,000

199 qualified law enforcement donation credit claimed but not used on
200 the taxpayers' 2023 Georgia income tax return shall be allowed to
201 be carried forward to apply to the taxpayer's succeeding five years'
202 tax liability.

203
204 (d) For an individual taxpayer who is a member of a limited li-
205 ability company duly formed under state law (including a member
206 who owns a single member limited liability company that is disre-
207 garded for income tax purposes), a shareholder of a Subchapter 'S'
208 corporation, or a partner in a partnership, the credit is limited to the
209 actual amount expended or \$10,000 per tax year, whichever is less;
210 provided, however, that the tax credits shall only be allowed for
211 the Georgia income on which such tax was actually paid by such
212 member of a limited liability company, shareholder of a Subchap-
213 ter 'S' corporation, or partner in a partnership. In determining such
214 Georgia income, the shareholder, partner, or member shall exclude
215 any income that was subtracted on their Georgia return because the
216 entity paid tax at the pass-through entity level in Georgia as pro-
217 vided in Regulation 560-7-3-.03. If the individual taxpayer is a
218 member, partner, or shareholder in more than one pass-through
219 entity, the total credit allowed cannot exceed \$10,000; the individ-
220 ual taxpayer decides which pass-through entities to include when
221 computing Georgia income for purposes of the qualified law en-
222 forcement donation credit. All Georgia income, loss, and expense
223 from the taxpayer selected pass-through entities will be combined
224 to determine Georgia income for purposes of the qualified law en-
225 forcement donation credit. Such combined Georgia income shall
226 be multiplied by the applicable marginal tax rate to determine the
227 tax that was actually paid. If the taxpayer is filing a joint return, the
228 taxpayer's spouse may also claim a credit for the spouse's owner-
229 ship interests and shall separately be eligible for a credit as provid-
230 ed in this subparagraph. If the taxpayer is preapproved for an
231 amount that exceeds the amount that is calculated as allowed when

232 the return is filed, the excess amount cannot be claimed by the tax-
233 payer and cannot be carried forward.

234
235 1. Example: Taxpayer, an individual taxpayer, is the sole
236 shareholder of A, Inc, an S corporation, Taxpayer is also a 50%
237 partner, in BC Company, a partnership, and Taxpayer is also a
238 20% member of a limited liability company, XYZ Company,
239 which is taxed as a partnership. Taxpayer requests preapproval for
240 the qualified law enforcement donation credit for calendar year
241 2023 by submitting Form IT-QLED-TP1. On Form IT-QLED-TP1,
242 Taxpayer estimates that the taxpayer's Georgia income from A,
243 Inc. is \$120,000, and that Taxpayer's share of Georgia income
244 from BC Company is \$60,000, Taxpayer chooses not to include
245 any income from XYZ Company when estimating Georgia income
246 for purposes of the qualified law enforcement donation credit;
247 therefore the Department preapproves Taxpayer for \$10,000 quali-
248 fied law enforcement donation credit (since \$10,000 is less than
249 \$10,350 (5.75% of \$180,000) and the applicable marginal tax rate
250 for 2023 is 5.75%). Taxpayer makes a \$10,000 donation to the law
251 enforcement foundation within 60 days of receiving preapproval
252 from the Department and before the end of 2023. When Taxpayer
253 files Taxpayer's 2023 Georgia income tax return, Taxpayer re-
254 ceived a salary from A, Inc. of \$50,000 and A, Inc's actual Georgia
255 income is \$60,000; Taxpayer's actual share of Georgia income
256 from BC Company is \$20,000 and Taxpayer received a guaranteed
257 payment from BC Company of \$15,000; Taxpayer's actual share of
258 Georgia income from XYZ Company is \$5,000 (the Taxpayer can
259 choose to include this company even though it was not considered
260 at the time of preapproval), Taxpayer can only claim \$8,625 quali-
261 fied law enforcement donation credit (which is 5.75% of the
262 \$150,000 actual income from Taxpayer's selected pass-through
263 entities), and the extra \$1,375 cannot be claimed by Taxpayer and
264 cannot be carried forward. Any amount of the \$8,625 qualified law

enforcement donation credit claimed but not used on the taxpayer's 2023 Georgia income tax return shall be allowed to be carried forward to apply to the taxpayer's succeeding five years' tax liability.

(e) For a corporation taxpayer, fiduciary taxpayer, an S corporation that makes the election to pay tax at the entity level under O.C.G.A. § 48-7-21, or a partnership that makes the election to pay tax at the entity level under O.C.G.A. § 48-7-23, the credit amount shall not exceed the actual amount expended or 75 percent of the corporation's, fiduciary's, electing S corporation's, or electing partnership's income tax liability, whichever is less. S corporations and partnerships that elect to pay taxes at the entity level cannot pass the credit through to their members, partners, or shareholders. Fiduciary entities cannot pass the credit through to their beneficiaries.

1. Example: Taxpayer, a corporation, requests preapproval for the qualified law enforcement donation credit for calendar year 2023 by electronically submitting Form IT-QLED-TP1 through the Georgia Tax Center. On Form IT-QLED-TP1, Taxpayer's intended contribution for 2023 is \$75,000; and Taxpayer's estimated income tax liability for the 2023 tax year is \$100,000; therefore the Department preapproves Taxpayer for \$75,000 qualified law enforcement donation credit for calendar year 2023. Taxpayer makes a \$75,000 donation to the law enforcement foundation within 60 days of receiving preapproval from the Department and before the end of 2023. When Taxpayer files its 2023 Georgia income tax return, Taxpayer's income tax liability for tax year 2023 is \$80,000. Taxpayer can only claim \$60,000 of qualified law enforcement donation credit (\$60,000 is 75% of the actual Georgia income tax liability for tax year 2023), and the extra \$15,000 cannot be claimed by Taxpayer and cannot be carried forward. Any amount of the \$60,000 qualified law enforcement donation credit claimed but not

298 used on the taxpayer's 2023 Georgia income tax return shall be al-
299 lowed to be carried forward to apply to the taxpayer's succeeding
300 five years' tax liability.

301

302 2. Example: Taxpayer, a S corporation electing to pay tax at
303 the entity level, requests preapproval for the qualified law en-
304 forcement donation credit for calendar year 2023 by electronically
305 submitting Form IT-QLED-TP1 through the Georgia Tax Center.
306 On Form IT-QLED-TP1 Taxpayer's intended contribution for 2023
307 is \$75,000; and Taxpayer's estimated income tax liability for the
308 2023 tax year is \$100,000; therefore the Department preapproves
309 Taxpayer for \$75,000 qualified law enforcement donation credit
310 for calendar year 2023. Taxpayer makes a \$75,000 donation to the
311 law enforcement foundation within 60 days of receiving preap-
312 proval from the Department and before the end of 2023. When
313 Taxpayer files its 2023 Georgia income tax return, Taxpayer's in-
314 come tax liability for tax year 2023 is \$80,000, Taxpayer can only
315 claim \$60,000 of qualified law enforcement donation credit
316 (\$60,000 is 75% of its actual Georgia income tax liability for tax
317 year 2023), and the extra \$15,000 cannot be claimed by Taxpayer
318 and cannot be carried forward. Any amount of the \$60,000 quali-
319 fied law enforcement donation credit claimed but not used on the
320 taxpayer's 2023 Georgia income tax return shall be allowed to be
321 carried forward to apply to the taxpayer's succeeding five years' tax
322 liability but shall not be allowed to be passed through to and used
323 by the shareholders.

324

325 (f) Except as provided in subparagraph (7)(e) of this regulation,
326 when the taxpayer is a pass-through entity which has no income
327 tax liability of its own, the tax credits will be considered earned by
328 its members, shareholders, or partners based on their profit/loss
329 percentage at the end of the year and the limitations of subpara-
330 graph (7)(d) of this regulation. The expenditure is made by the

331 pass-through entity but all credit forms (preapproval, claiming, and
332 reporting) will be filed in the name of its members, shareholders,
333 or partners and the credit can only be applied against the share-
334 holders', members', or partners' tax liability on their income tax
335 returns. The pass-through entity shall provide all necessary infor-
336 mation to the law enforcement foundation so that the preapproval,
337 claiming and reporting forms can be filed in the name of its mem-
338 bers, shareholders, or partners.

339
340 (g) A taxpayer may apply to make a donation to multiple law
341 enforcement foundations or may apply to make multiple donations
342 to the same law enforcement foundation; provided, however, each
343 donation must be applied for separately.

344
345 (8) **Form 990.** Each qualified law enforcement foundation
346 must submit a copy of its most recent Form 990 filed with the
347 United States Internal Revenue Service to the Department of Rev-
348 enue by May 15. If the qualified law enforcement foundation filed
349 the Form 990-N, then the qualified law enforcement foundation
350 must submit a copy of the filing confirmation or the listing by the
351 United States Internal Revenue Service of the Form 990-N filing to
352 the Department of Revenue. If the qualified law enforcement foun-
353 dation is not required by federal law to file a Form 990, then the
354 foundation must submit the proxy for Form 990 to the Department
355 of Revenue by May 15.

356
357 **(9) Contributions Report.**
358

359 (a) The contributions report detailing the contributions received
360 for the prior calendar year shall be submitted by each qualified law
361 enforcement foundation by May 15. Form IT-QLED-LEF2 shall be
362 the form used to submit the report. The report shall be submitted
363 electronically through the Georgia Tax Center.

(b) The report shall be prepared on a calendar year basis regardless of the fiscal year of the qualified law enforcement foundation.

(c) The report shall include the following:

1. The total number and dollar value of individual contributions and qualified law enforcement donation credits preapproved. Individual contributions shall include contributions made by those filing income tax returns as single, head of household, married filing separate, and married filing joint;

2. The total number and dollar value of corporate, trust, S corporation, and partnership contributions and qualified law enforcement donation credits preapproved;

3. The total number and dollar value of all qualified expenditures made;

4. A list of contributors, including the dollar value of each contribution and the dollar value of each preapproved tax credit; and

5. Any other information required by the Commissioner.

(10) Website Posting by the Department. The following shall be posted on the Department's website:

(a) The application and requirements to be certified as a qualified law enforcement foundation;

(b) The list of all qualified law enforcement foundations and their affiliate local law enforcement units;

397
398 (c) The aggregate amount of tax credits remaining and availa-
399 ble for preapproval for each year;

400
401 (d) The web-based method for taxpayers seeking preapproval
402 status for contributions; and

403
404 (e) The Form 990 and contributions report received from each
405 qualified law enforcement foundation, except for the information
406 in subparagraph (c)4. of paragraph (9).

407
408 **(11) Confidential Taxpayer Information.** Except for the in-
409 formation published under paragraph (10), all information or re-
410 ports relative to O.C.G.A. § 48-7-29.25 and this regulation that
411 were provided by qualified law enforcement foundations to the
412 Department shall be confidential taxpayer information, governed
413 by O.C.G.A. §§ 48-2-15, 48-7-60, and 48-7-61, whether such in-
414 formation relates to the contributing taxpayer or the qualified law
415 enforcement foundation.

416
417 **(12) Mandatory Electronic Preapproval of the Contribu-**
418 **tion.**

419
420 (a) The taxpayer must electronically submit Form IT-QLED-
421 TP1 through the Georgia Tax Center to request preapproval of the
422 qualified law enforcement donation credit from the Department of
423 Revenue. The Department will not preapprove any qualified law
424 enforcement donation credit where the Form IT-QLED-TP1 is
425 submitted or filed in any other manner. Each qualified law en-
426 forcement foundation shall be registered with the Department to
427 facilitate the web-based preapproval process for Form IT-QLED-
428 TP1.

(b) The taxpayer should not submit Form IT-QLED-TP1 to the Department of Revenue until the taxpayer's recipient law enforcement foundation is listed on the Department's website. If the taxpayer's recipient law enforcement foundation is not listed on the website at the time that the Department of Revenue attempts to verify the organization's listing, the Department of Revenue shall deny the request. If at a later date the taxpayer's recipient law enforcement foundation becomes listed, it will be necessary for a new Form IT-QLED-TP1 to be submitted by the taxpayer to the Department of Revenue.

(c) The electronic Form IT-QLED-TP1 shall include the following information:

1. The name of the qualified law enforcement foundation listed on the Department of Revenue's website to which the contribution will be made. The qualified law enforcement foundation should be listed on the Department of Revenue's website before the Form IT-QLED-TP1 is filed with the Department of Revenue.

2. The taxpayer identification number of the qualified law enforcement foundation to which the contribution will be made.

3. The name, address and taxpayer identification number of the taxpayer.

4. The type of taxpayer.

5. If the taxpayer is an individual, the filing status.

6. If the taxpayer is an individual filing a joint return, the name and identification number of the joint filer.

463 7. The intended contribution amount.

464
465 8. If the contributor is a corporation, fiduciary, electing S cor-
466 poration, or electing partnership, 75% of the estimated income tax
467 liability the corporation, fiduciary, electing S corporation, or elect-
468 ing partnership expects for the tax year of the corporation, fiduci-
469 ary, S corporation, or partnership in which the contribution will be
470 made.

471
472 9. Tax year end of the taxpayer.

473
474 10. Calendar year in which the contribution will be made.

475
476 11. Certification that all information contained on the Form IT-
477 QLED-TP1 is true to his/her best knowledge and belief and is
478 submitted for the purpose of obtaining preapproval from the
479 Commissioner.

480
481 12. Any other information the Commissioner may require.

482
483 (d) The qualified law enforcement donation credit shall be al-
484 lowed on a first-come, first-served basis. The date and time the
485 Form IT-QLED-TP1 is electronically submitted shall be used to
486 determine such first-come, first-served basis.

487
488 (e) The Department will notify each taxpayer and the taxpayer's
489 selected qualified law enforcement foundation of the tax credits
490 preapproved, denied, or prorated to such taxpayer within 30 days
491 from the date the Form IT-QLED-TP1 was received.

492
493 (f) On the day any Form IT-QLED-TP1 is received for a calen-
494 dar year that causes the calendar year limit in paragraph (5) of this
495 regulation to be reached, then the remaining tax credits shall be

496 allocated among the applicants who submitted the Form IT-QLED-
497 TP1 on the day the calendar year limit was exceeded on a pro rata
498 basis based upon the amounts otherwise allowed by O.C.G.A. §
499 48-7-29.25 and this regulation. Only credit amounts on Form IT-
500 QLED-TP1(s) received on the day the calendar year limit was ex-
501 ceeded shall be allocated on a pro rata basis.

502
503 (g) The contribution must be made by the taxpayer within 60
504 days of the date of the preapproval notice received from the De-
505 partment and within the calendar year in which it was preapproved.

506
507 (h) In the event it is determined that the taxpayer has not met
508 all the requirements of O.C.G.A. § 48-7-29.25, then the amount of
509 the qualified law enforcement donation credit shall not be preap-
510 proved or the preapproved qualified law enforcement donation
511 credit shall be retroactively denied. With respect to such denied
512 credit, any applicable tax, interest, and penalties shall be due if the
513 qualified law enforcement donation credit has already been
514 claimed.

515
516 (i) Notwithstanding any laws to the contrary, the Department
517 shall not take any adverse action against donors to qualified law
518 enforcement foundations if the Commissioner preapproved a dona-
519 tion for a tax credit prior to the date the qualified law enforcement
520 foundation is removed from the Department of Revenue list pursu-
521 ant to O.C.G.A. § 48-7-29.25(j) and paragraph (22) of this regula-
522 tion, and all such donations shall remain as preapproved tax credits
523 subject only to the donor's compliance with O.C.G.A. § 48-7-
524 29.25(e) and this paragraph.

525
526 (j) Once the calendar year limit is reached for a calendar year,
527 taxpayers shall no longer be eligible for a credit pursuant to
528 O.C.G.A. § 48-7-29.25, for such calendar year. If any Form IT-

529 QLED-TP1 is received after the calendar year limit has been
530 reached, then it shall be denied and not be reconsidered for preap-
531 proval at any later date.

532

533 (13) **Letter of Confirmation.** Form IT-QLED-LEF1 shall be
534 provided by the law enforcement foundation to the taxpayer to
535 confirm the contribution within 15 days of the contribution.

536

537 (14) **Claiming the Credit.** A taxpayer claiming the qualified
538 law enforcement donation credit, unless indicated otherwise by the
539 Commissioner, must submit Form IT-QLED-TP2 with the taxpay-
540 er's Georgia tax return when the qualified law enforcement dona-
541 tion credit is claimed. An electronically filed Georgia income tax
542 return that includes the software's electronic Form IT-QLED-TP2
543 satisfies this requirement.

544

545 (15) **E-filing Attachment Requirements.** If a taxpayer claim-
546 ing the credit electronically files their tax return, the Form IT-
547 QLED-LEF1 shall be required to be attached to the return only if
548 the Internal Revenue Service allows such attachments when the
549 data is transmitted to the Department. In the event the taxpayer
550 files an electronic return and such information is not attached be-
551 cause the Internal Revenue Service does not, at the time of such
552 electronic filing, allow electronic attachments to the Georgia re-
553 turn, such information shall be maintained by the taxpayer and
554 made available upon request by the Commissioner.

555

556 (16) **Carry Forward.** Any credit which is claimed but not
557 used in a taxable year shall be allowed to be carried forward to ap-
558 ply to the taxpayer's succeeding five years' tax liability. However,
559 any amount in excess of the credit amount limits in paragraph (7)
560 of this regulation shall not be eligible for carry forward to the tax-
561 payer's succeeding years' tax liability nor shall such excess amount

be claimed by or reallocated to any other taxpayer.

(17) Taxpayer Must Add Back Portion of Federal Deduction on State Return if Taxpayer Takes State Credit. O.C.G.A. § 48-7-29.25(k) provides that no qualified law enforcement donation credit shall be allowed under O.C.G.A. § 48-7-29.25, with respect to any amount deducted from taxable net income by the taxpayer. If the taxpayer is allowed the state income tax deduction as allowed by the Internal Revenue Service, for purposes of this paragraph such deduction shall be considered a charitable contribution to the extent such deduction is allowed federally. Accordingly, the taxpayer must add back to Georgia taxable income that part of any federal deduction taken on a federal return for which a Georgia qualified law enforcement donation credit is allowed under O.C.G.A. § 48-7-29.25.

(a) If a taxpayer's itemized deductions are limited federally (and therefore for Georgia purposes) because their Federal Adjusted Gross Income exceeds a certain amount, the taxpayer is only required to add back to Georgia taxable income that portion of the federal charitable deduction that was actually deducted pursuant to the following formula. The federal charitable deduction that must be added back to Georgia taxable income shall be the amount of the federal charitable contribution relating to the qualified law enforcement donation credit multiplied by the following ratio. The numerator is the amount of the itemized deductions subject to limitation and allowed as itemized deductions after the limitation is applied. The denominator is the total itemized deductions that are subject to limitation before the limitation is applied.

1. For example. A taxpayer has a \$2,500 charitable contribution relating to the qualified law enforcement donation credit (credit amount is \$2,500) and has property taxes of \$1,500 both of

595 which are subject to limitation. The taxpayer also has mortgage
596 interest expense of \$10,000 (which is not limited). Accordingly,
597 the taxpayer's total itemized deductions before limitation are
598 \$14,000. After applying the federal limitation, the taxpayer is al-
599 lowed \$13,000 in itemized deductions. As such only \$3,000
600 (\$13,000 less the \$10,000 mortgage interest expense which is not
601 limited) of the original \$4,000 charitable deduction and property
602 taxes are allowed to be deducted. Applying the ratio from the sub-
603 paragraph above, the taxpayer must add back \$1,875 of the chari-
604 table contribution to their Georgia taxable income (\$2,500) X
605 (\$3,000 / \$4,000)).

606
607 **(18) Website Posting by Qualified Law Enforcement Foun-**
608 **dation.** By April 1st of each year, each qualified law enforcement
609 foundation shall post on its website in a prominent place a copy of
610 its affiliated local law enforcement unit's prior year's annual budg-
611 et containing the total amount of funds received from the local law
612 enforcement unit's local governing body. If a qualified law en-
613 forcement foundation does not maintain a public website, such in-
614 formation shall be otherwise made available by the qualified law
615 enforcement foundation to the public upon request.

616
617 **(19) Designation of Contributions.** The tax credit shall not be
618 allowed if the taxpayer directly or indirectly designates the taxpay-
619 er's qualified contributions to any particular purpose or for the di-
620 rect benefit of any particular individual, whether or not such indi-
621 vidual is a dependent of the taxpayer.

622
623 **(20) Direct Contracts.** The tax credit shall not be allowed for
624 contributions made to a qualified law enforcement foundation if
625 the taxpayer directly or indirectly operates, owns, or is a subsidiary
626 of an association, organization, or other entity that contracts direct-
627 ly with such qualified law enforcement foundation or its affiliated

628 local law enforcement unit.

629

630 (21) **Soliciting Contributions.** In soliciting contributions, a
631 law enforcement foundation shall not represent, or direct a local
632 law enforcement unit to represent, that in exchange for contrib-
633 uting to the law enforcement foundation, a taxpayer shall receive a
634 direct or particular benefit.

635

636 (22) **Failure to Comply and Revocation of Qualified Status.**

637

638 (a) Any qualified law enforcement foundation that fails to
639 comply with the requirements under O.C.G.A. § 48-7-29.25 shall
640 be given written notice of its failure and shall have 90 days from
641 receipt of such notice to correct all deficiencies.

642

643 (b) If the qualified law enforcement foundation fails to correct
644 all deficiencies within 90 days of receipt of notice from the De-
645 partment, such qualified law enforcement foundation shall:

646

647 1. Be immediately removed from the Department of Revenue's
648 list of approved qualified law enforcement foundations;

649

650 2. Have all applications for preapproval of tax credits under
651 O.C.G.A. § 48-7-29.25 rejected by the Department on or after the
652 date that the Department of Revenue removes the qualified law
653 enforcement foundation from its list of approved qualified law en-
654 forcement foundations; and

655

656 3. Be required to cease all operations as a qualified law en-
657 forcement foundation and transfer all contribution funds that are
658 not yet expended, to a properly operating qualified law enforce-
659 ment foundation within 30 calendar days of receipt of notice from
660 the Department of removal from the approved list.

661

662 (c) Notwithstanding subparagraphs (a) and (b), any qualified
663 law enforcement foundation that fails to comply with the require-
664 ments under O.C.G.A. § 48-7-29.25(i)(3) and paragraph (21) of
665 this regulation shall have its status as a qualified law enforcement
666 foundation revoked and shall not be renewed as a qualified law
667 enforcement foundation for at least two years from the date of the
668 revocation.

669

670 1. The law enforcement foundation shall be removed from the
671 Department of Revenue's list of approved qualified law enforce-
672 ment foundations and the Department shall not preapprove any
673 contributions to such law enforcement foundation.

674

675 (23) **Effective Date.** This regulation shall be applicable to
676 years beginning on or after January 1, 2023.

677

678 Authority: O.C.G.A. §§ 48-2-12 and 48-7-29.25.