COMMITTEE ON BUDGET, APPROPRIATIONS AND FINANCE

BILL NO. 35-0097

Thirty-Fifth Legislature of the Virgin Islands

June 12, 2023

An Act amending title 33 Virgin Islands Code, subtitle 1, part 1, chapter 3 by adding section 43m to establish the "Virgin Islands Beautification Tax Credit"

PROPOSED BY: Senator Novelle E. Francis, Jr.

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 33, Virgin Islands Code, subtitle 1, part 1, chapter 3 is amended by adding section 43m that reads as follows:

"§43m. Virgin Islands Beautification Tax Credit

(a) **Definitions.** As used in this section, unless it is otherwise provided or the context requires a different construction, application, or meaning, the term:

(1) "approved beautification project" means any project that has been so designated by the Department as provided in subsection (e).

(2) "approved participant" or "participant" means any person who has applied to and has been accepted by the Department to participate in an approved beautification project.

(3) “Department” means the Department of Public Works.

(4) “person” means an individual, partnership, firm, corporation, or other business association.

(5) “qualified beautification expenditure” means an expenditure that is directly related to an approved beautification project as provided in subsection (c).

(6) “Virgin Islands Beautification Tax Credit” means the tax credit established in subsection (b).

(b) An approved participant shall be entitled to a tax credit, known as the Virgin Islands Beautification Tax Credit, against the participant’s gross receipts tax in an amount equal to the lesser of the participant’s gross receipts tax liability for a given gross receipts tax period, or the participant’s qualified beautification expenditures for the given gross receipts tax period. An approved participant whose qualified beautification expenditures exceed the participant’s gross receipt tax liability for the participant’s gross receipts tax period shall be entitled to carry forward any excess Virgin Islands Beautification Tax Credit to the following gross receipts tax period, and during such following gross receipts tax period, the carried forward Virgin Islands Beautification Tax Credit shall be treated as a qualified beautification expenditure.

(c) A qualified beautification expenditure includes:

(1) Payments to employees or contractors engaged solely or partially in the cleaning or maintenance of the approved beautification project area, as determined on a pro rata basis and limited to the portion of the costs which directly relates to the cleaning or maintenance of the approved beautification project area.

(2) The purchase of qualified cleaning equipment, which includes, subject to the limitations in subparagraphs (A), (B), and (C), any equipment purchased solely to remove litter or other debris from the approved beautification project area.

(A) For expenditures of $1,000.00 or less per equipment item, the equipment must be used for a cumulative period of at least forty hours for the removal of litter or other debris from the approved beautification project area, or

(B) For expenditures greater than $1,000.00 per equipment item, the equipment must be used for a cumulative period of at least 400 hundred hours for the removal of litter or other debris from the approved beautification project area.

(C) The expense related to qualified cleaning equipment is limited to the cost of the equipment and the costs relating to the delivery of the equipment to the Virgin Islands.

(d) No expenditure shall be considered a qualified beautification expenditure unless the expenditure is incurred by an approved participant of an approved beautification project.

(e) The Department shall designate at least five projects per year as approved beautification projects in each district. An approved beautification project shall consist of a geographic designation of a public area, specifically described, where persons are permitted to incur qualified beautification expenditures. In designating a public area as an approved beautification project, the Department shall consider:

(1) The amount of garbage and other debris that pollutes an area;

(2) The level of public use of an area;

(3) The visibility of an area to members of the public;

(4) The proximity of an area to facilities such as schools, parks, beaches, and hospitals; and

(5) The aggregate expense of the project.

(f) Any person may apply to be an approved participant by submitting a written application to the Department stating the approved beautification project to which the application pertains, the work to be performed by the person, and the total amount of qualified beautification expenditures for the project. Any person may apply to the Department to have a public area in the Virgin Islands designated as an approved beautification project. The application must be in writing and specify why the public area meets the criteria listed in subsection (e), the work to be performed by the person, and the total amount of qualified beautification expenditures for the project, not to exceed $150,000. Within 60 days of the receipt of an application submitted under this subsection, the Department shall approve the application, approve the application with modifications, or deny the application.

(g) The Department shall specify the limit of total qualified beautification expenditures allowed for each approved beautification project. Each year, the total of approved expenditures for all beautification projects shall not exceed $1,500,000 for each district.

(h) The Department may terminate any approved beautification project upon 30 days' advance written notice to the participant. No qualified beautification expenditure shall be allowed for any participant after the 30-day notice period has expired.

(i) Any approved participant claiming a Virgin Islands Beautification Tax Credit for the payment of employees or contractors must keep a contemporaneous log of:

(1) The time the employees or contractors spend performing tasks relating to the cleaning or maintenance of the approved beautification project area;

(2) A description of the specific tasks relating to the cleaning or maintenance of the approved beautification project area performed by the employees or contractors; and

(3) A record of the proportion of time the employee or contractor spends performing duties relating to the cleaning or maintenance of the approved beautification project area compared to all other duties of such employee or contractor.

(j) Any person claiming a Virgin Islands Beautification Tax Credit for qualified cleaning equipment must keep a contemporaneous log of the cleaning or maintenance activities associated with the qualified cleaning equipment for the qualified beautification project, including a log of the time the equipment was deployed in the cleaning of the approved beautification project area.

(k) Within 30 days after receiving a request from the Director of the Virgin Islands Bureau of Internal Revenue ("Director"), a participant claiming the Virgin Islands Beautification Tax Credit shall provide substantiation of any expense claimed as a qualified beautification expenditure as well as a description of how the qualified beautification expenditure relates to the cleaning or maintenance of the approved beautification project area. If a participant fails to substantiate the information requested in this subsection in the time frame specified, or fails to produce satisfactory substantiation of the information, the Director may disallow the unsubstantiated expenditure for such period as the Director's request for substantiation pertains to and assess the person's gross receipts tax liability without the unsubstantiated portion of the Virgin Islands Beatification Tax Credit.

(*l*) The Department of Public Works in conjunction with the Virgin Islands Bureau of Internal Revenue, shall promulgate regulations to administer and carry out the purposes of this section.

(m) Notwithstanding 33 V.I.C. §3072 (c), the sum of $3,000,000 is appropriated each fiscal year from the Tourism Advertising Revolving Fund to the Virgin Islands Bureau of Internal Revenue for the purpose of funding the tax credits approved under subsection (b)."

BILL SUMMARY

This bill amends title 33, Virgin Islands Code, subtitle 1, part 1, chapter 3 by adding section 43m establishing the "Virgin Islands Beautification Tax Credit" ("Tax Credit") which gives a person a credit against the person's gross receipts tax in an amount equal to the lesser of the person's gross receipts tax liability for a given gross receipts tax period, or the person's qualified highway beautification expenditures for the given gross receipts tax period. The bill also establishes the requirements for record-keeping, requires the Department of Public Works in conjunction with the Virgin Islands Bureau of Internal Revenue to promulgate regulations, and makes an annual appropriation of $3,000,000 from the Tourism Advertising Revolving Fund to the Virgin Islands Bureau of Internal Revenue for the purpose of funding the Tax Credit.

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