

From: Georgia Heart <heart@georgiaheart.org>

Sent: Wednesday, September 25, 2019 4:23 PM

Subject: DOR Rule Facilitates Georgia HEART Credit for Pass-Through Business Expense Payments

Dear Friends of Georgia HEART,

The Georgia Department of Revenue (the "DOR") has officially updated Rule [560-7-8-.57](#) (the "Rule") relating to the Georgia Rural Hospital Organization Expense Credit, which Georgia HEART Hospital Program administers on behalf of all of the participating rural hospitals.

Under the Rule, when a pass-through business entity (i.e., a limited liability company, "S" corporation, or partnership) makes a payment to a rural hospital organization ("RHO") that qualifies as an ordinary and necessary business expense for federal income tax purposes, each owner of the pass-through business entity may claim his or her share of the Georgia HEART credit corresponding to the business payment, based on his or her profit/loss percentage ownership of the business at the end of the year.

For the first six months of each calendar year, the maximum credit available to a pass-through business owner is \$10,000; thereafter, there is no limit on the amount of the Georgia HEART credit for which a pass-through business owner can apply, so long as the amount of his or her Georgia income tax liability from the business equals or exceeds the credit amount.

Thus, it is possible for a pass-through business entity to take a federal business expense deduction for a payment made to a RHO, for which the business owners may receive a corresponding Georgia HEART credit. Of course, a business owner's share of the federal deduction must be added back to his or her Georgia taxable income, as the State of Georgia will not permit the business owner to have his or her Georgia taxable income from the business reduced by a federal business expense deduction, while also receiving a State income tax credit for the same amount.

Under IRC § 162, businesses are able to deduct payments that bear a direct relationship to the taxpayer's trade or business and are made with a reasonable expectation of financial return commensurate with the amount of the transfer. Treas. Reg. § 1.170A-1(c)(5). Businesses seeking to claim a business expense deduction for payments to charitable organizations should contemporaneously document the business and financial rationale for making such payments. If, by making a payment to a RHO, the business expects to build brand awareness, increase customer or client loyalty, earn community goodwill, develop more business, and/or retain and recruit employees, the business should estimate and document the value of those expected outcomes.

Georgia HEART is accepting 2019 tax credit applications at www.georgiaheart.org, including those for the owners of interests in pass-through entities.

In all cases, Georgia HEART recommends that taxpayers consult with their tax advisors.

Best,

Jim Kelly

General Counsel

Georgia HEART Hospital Program, LLC

3740 Davinci Court, Suite 375

Peachtree Corners, GA 30092

Direct: 770-370-4221

jkellyiii@georgiaheart.org

www.georgiaheart.org

GEORGIA HEART
HOSPITAL PROGRAM

Helping Enhance Access to Rural Treatment