29 V.I.C. § 713e

Statutes current through Act 8687 of the 2022 session of the 34th Legislature, including all code changes through January 18, 2023

Virgin Islands Code Annotated > TITLE TWENTY-NINE Public Planning and Development (Chs. 1 — 24) > Chapter 12. Economic Development and Incentives (Subchs. I — IV) > Subchapter I. Economic Development Program (§§ 701 — 726)

§ 713e. *Tax exemptions* for the production of *affordable housing*

(a) Notwithstanding any other provision of law to the contrary, in order to carry out the purposes of the Act, every person, firm, partnership, joint venture or corporation providing ***affordable housing*** pursuant to an approved ***Affordable Housing Development Agreement*** entered into with the Government of the Virgin Islands pursuant to the Virgin Islands ***Affordable Housing*** Program shall be entitled to an ***exemption*** from payment of the following ***taxes***:

(1) all gross receipts ***taxes*** related to receipts, cash or accrued, derived from or directly connected with the production of ***affordable housing*** units under the Act, but if such receipts are derived from or effectively connected with the production of ***affordable housing*** units under the Act and other ***housing*** units or other types of construction, then the provider of ***affordable housing*** under the said Act must allocate the gross receipts between the ***housing*** units under the Act and the other construction, based on the provider of ***affordable housing***'s total cost of construction. The provider of ***affordable housing*** must only claim an ***exemption*** for the portion of the receipts allocated to the production of ***affordable housing*** units under the Act. The costs of any common facilities must also be allocated between the ***housing*** units under the Act and the other construction;

(2) all excise ***taxes*** on building materials, articles, supplies, goods, merchandise, tools manufactured or brought into the Virgin Islands on or after April 1, 1990, to be used or employed exclusively in the production of ***affordable housing*** units under the Act;

(3) all customs duties in excess of a 1% handling charge on all materials, goods, tools, equipment, articles and commodities imported into the Virgin Islands to be used exclusively for the production of ***affordable housing*** under an approved ***Affordable Housing Development Agreement*** under the program.

(b) In addition to the ***exemptions*** provided in subsection (a), every person, firm, partnership, joint venture or corporation qualifying under subsection (a) of this section, shall have all corporate and individual income ***tax*** liability reduced to zero for a period equal to the term of the applicable ***Affordable Housing Development Agreement*** or applicable construction, operation or management ***agreement*** with respect to income derived: (1) from the construction of ***affordable housing*** units under the Virgin Islands ***Affordable Housing*** Program; (2) from or effectively connected with the sale or rental of ***affordable housing*** under the Virgin Islands ***Affordable Housing*** Program, whether such ***housing*** is new construction, rehabilitated or improved; (3) from the operation or management of such ***affordable housing*** during the period in which it is not sold; or (4) where applicable, from the management of rental property, provided that, in addition to any prerequisites stated in the Act, the person seeking such ***exemption*** meets the following conditions:

(1) in the case of an individual or a partner in a firm or partnership or a participant in a joint venture, such person is a bona fide resident of the Virgin Islands, and in the case of a corporation, is created under the laws of the Virgin Islands;

(2) such person meets the requirements of subsection (b) of section 934 of the Internal Revenue Code of 1986, as amended, or any other applicable provision of federal law, and the provisions of this section 713e, or any regulations issued under such laws;

(3) such person undertakes to provide ***affordable housing*** as provided in the Act.

The ***exemptions*** granted in this section shall apply to any vendor of construction supplies and material for use in ***affordable housing*** projects pursuant to the ***Affordable Housing*** Program authorized by Title 29, chapter 16, Virgin Islands Code, in the same manner that such ***exemption*** is applied to providers of ***affordable housing***.

(c) Notwithstanding any provision of law to the contrary, the ***exemption*** from payment of gross receipts ***taxes*** set forth in paragraph (1) of subsection (a) of this section, shall also be granted to all subcontractors for work performed on ***affordable housing*** projects pursuant to the Virgin Islands ***Affordable Housing*** Program in the same manner that such ***exemption*** is applied to providers of ***affordable housing***.

(d) Any person entitled to the ***tax*** benefits hereby conferred shall apply to the Director under this subchapter for an appropriate certificate of ***tax exemption***. Certificates shall be approved or disapproved by the Commission in accordance with rules and regulations promulgated by the Commission. In considering an application for a certificate, the Director shall consult with the Department or the VIHFA as the case may be to determine whether the applicant for ***tax*** benefits hereunder is in default under the ***Affordable Housing Development Agreement*** signed by the applicant or under any other ***agreement*** or arrangement undertaken by the applicant in connection with the program.

(e) The Commission shall issue rules and regulations, consistent with this section and the Act, as may be necessary and appropriate to implement this section.

(f) No loan made pursuant to any provision of this Act, including, without limitation, any loan to finance the construction, rehabilitation, improvement, or purchase of ***affordable housing*** under this Act, shall be considered a below-market loan for the purposes of section 7872 of the Internal Revenue Code of 1986, as amended. Accordingly, no interest in excess of the rate charged on a loan shall be imputed as income with regard to any loan made pursuant to any provision of this Act.

(g) A developer ***agreement*** with the ***Housing*** Finance Authority entered into by such Authority in connection with mortgage revenue bonds issued by such Authority before December 1, 1990, pursuant to the provisions of applicable Federal ***tax*** law shall be treated for all purposes of this section as an approved ***Affordable Housing Development Agreement*** entered into pursuant to the ***Affordable Housing*** Program for the production of ***affordable housing*** units under the Low and Moderate Income ***Affordable Housing*** Act of 1990, as amended.

(h) A developer who has entered into an ***Affordable Housing Development Agreement*** with the Virgin Islands ***Housing*** Finance Authority for the construction, rehabilitation or improvement of ***housing*** units under the Low and Moderate Income ***Affordable Housing*** Act of 1990, as amended, for a project included in an ***Affordable Housing*** Plan, which is approved pursuant to Title 21, chapter 2, Virgin Islands Code, shall automatically receive a certificate of ***exemption*** from ***taxes*** as provided under this section.

History

—Added Mar. 19, 1990, *No. 5523, § 13, Sess. L. 1990*, p. 64; amended June 8, 1990, *No. 5575, §§ 1(b), 2, Sess. L. 1990*, p. 226; Jan. 3, 1991, *No. 5694, Sess. L. 1990*, p. 588; May 3, 1994, *No. 5978, §§ 3(g), (h), 7, Sess. L. 1994*, p. 67; amended June 14, 2018, *No. 8056, § 6, Sess. L. 2018*, p. 93.

Annotations

Notes

HISTORY

Revision note

—1998.

Substituted “this section” for “Act” throughout the section pursuant to section 14 of Title 1.

—1996.

Redesignated items (i)–(iii) as paragraphs (1)–(3) in subsection (b) in view of the redesignation of former subsection (a)(4) as subsection (b) for purposes of conformity with general V.I.C. style pursuant to section 14 of Title 1.

Substituted “paragraph” for “item” following “set forth in” in subsection (c) to conform reference to V.I.C. style pursuant to section 14 of Title 1.

References in text.

Section 934 of the Internal Revenue Code of 1986, referred to in subsection (b)(2), and section 7872 of the Internal Revenue Code of 1986, referred to in subsection (f), are classified to 26 U.S.C. §§ 934 and 7872, respectively.

The Low and Moderate Income ***Affordable Housing*** Act of 1990, referred to in subsections (g) and (h), is classified to Title 29, chapter 16, Virgin Islands Code.

Editor's note.

Act 8056, § 14(a), provided that: “Sections 2, 4, 5, 6, 7 and 8 of this act, and section 7 of Act No. 8017 (Bill No. 32-0018) apply to all applications for ***tax*** benefits under title 29 Virgin Islands Code, chapter 12, with regard to which the Commission determined that ***tax*** benefits should be granted and shall govern for any applications submitted to the Commission.”

Amendments

—2018.

Act 8056, § 6, deleted “and the Governor” in the second sentence of subsection (d), and deleted “Subject to the approval of the Governor” at the beginning of subsection (e).

—1994.

Subsection (b): Added the undesignated concluding paragraph following paragraph (3).

Subsection (d): Inserted “or the VIHFA as the case may be” following “Department” in the third sentence.

Subsection (h): Added.

—1990.

Act No. 5575 inserted “in excess of a 1% handling charge” following “customs duties” and made a minor change in punctuation in subsection (a)(3), redesignated former subsection (a)(4) as subsection (b), substituted “in addition to the ***exemptions*** provided in subsection (a), every person, firm, partnership, joint venture or corporation qualifying under subsection (a) of this section, shall have all corporate and individual income ***tax*** liability reduced to zero” for “all corporate and individual income ***taxes***” preceding “for a period equal” in that subsection, and redesignated former subsections (b)–(e) as subsections (c)–(f).

Act No. 5694 added subsection (g).

Severability of enactment.

See Act Mar. 19, 1990, *No. 5523, § 14, Sess. L. 1990*, p. 66 and *1 V.I.C. § 51*.

Tax exemptions **contingent upon use of vocational education students in construction of** ***affordable housing*****.**

Act Mar. 19, 1990, *No. 5523, § 18, Sess. L. 1990*, p. 67, provided:

"(a)

The ***tax exemptions*** described in Section 13 of this Act shall not be available to any provider of ***affordable housing*** unless that provider agrees to hire and train, on a part time basis for the duration of the construction project, no fewer than eight students enrolled in vocational education programs in the Virgin Islands; provided, that at least two students shall be chosen from each of the fields of plumbing, electrical work, carpentry and masonry.

"(b)

Upon completion of the construction project, the students will be issued certificates of participation in the program."

Research References & Practice Aids

CROSS REFERENCES

Exemption from duty on items imported for ***affordable housing*** production, see § 527 of Title 33.

Hierarchy Notes:

29 V.I.C.

29 V.I.C. Ch. 12

29 V.I.C. Ch. 12, Subch. I

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