

Act No. 170
Public Acts of 1991
Approved by the Governor
December 19, 1991
Filed with the Secretary of State
December 20, 1991

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991**

Introduced by Senators N. Smith, Dingell, V. Smith, Emmons, Welborn, Stabenow, Dillingham,
Posthumus and Conroy

ENROLLED SENATE BILL No. 299

AN ACT to amend section 38c of Act No. 228 of the Public Acts of 1975, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," as amended by Act No. 135 of the Public Acts of 1990, being section 208.38c of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 38c of Act No. 228 of the Public Acts of 1975, as amended by Act No. 135 of the Public Acts of 1990, being section 208.38c of the Michigan Compiled Laws, is amended to read as follows:

Sec. 38c. (1) For the 1989 through 1994 tax years and subject to the limitations in subsections (2) to (5), a taxpayer who does not claim a credit under section 261 of the income tax act of 1967, Act No. 281 of the Public Acts of 1967, being section 206.261 of the Michigan Compiled Laws, may credit against the tax imposed by this act 50% of the amount the taxpayer contributes during the taxable year to an endowment fund of a community foundation or 50% of the cash amount the taxpayer contributes during the taxable year to a shelter for homeless persons, food kitchen, food bank, or other entity, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent if a contribution to that entity is tax deductible for the donor under the internal revenue code.

(2) The credit allowed by this section for a contribution to a community foundation shall not exceed 5% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less. For tax years beginning after December 31, 1991, a taxpayer may claim an additional credit under this section not to exceed 5% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less, for total cash contributions made in the tax year to shelters for homeless persons, food kitchens, food banks, and, except for community foundations, other entities allowed under subsection (1). The credits allowed by this section are nonrefundable so that a taxpayer shall not claim under this section a total credit amount that reduces the taxpayer's tax liability to less than zero.

(3) As used in this section, "community foundation" means an organization that applies for certification on or before April 1 of the tax year for which the taxpayer is claiming the credit and that the department certifies for that tax year as meeting all of the following requirements:

(a) Qualifies for exemption from federal income taxation under section 501(c)(3) of the internal revenue code.

(b) Supports a broad range of charitable activities within the specific geographic area of this state that it serves, such as a municipality or county.

(c) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.

(d) Is publicly supported as defined by the regulations of the United States department of treasury, 26 C.F.R. 1.170A-9(e)(10).

(e) Is not a supporting organization as defined under section 509(a)(3) of the internal revenue code and the regulations of the United States department of treasury, 26 C.F.R. 1.509(a)-4 and 1.509(a)-5.

(f) Meets the requirements for treatment as a single entity contained in the regulations of the United States department of treasury, 26 C.F.R. 1.170A-9(e)(11).

(g) Is incorporated or established as a trust before September 1 of the year immediately preceding the tax year for which the credit is claimed.

(5) An entity other than a community foundation may request that the department determine if a contribution to that entity qualifies for the credit under this section. The department shall make a determination and respond to a request no later than 30 days after the department receives the request.

(5) The credit for a contribution to a community foundation under this section does not apply in a tax year for which the aggregate amount of the credits claimed by all taxpayers for all prior tax years for contributions to community foundations under this section and section 261 of the income tax act of 1967, Act No. 281 of the Public Acts of 1967, being section 206.261 of the Michigan Compiled Laws, exceeds \$6,000,000.00. The credit under this section for a contribution to an entity other than a community foundation does not apply in a tax year for which the aggregate amount of the credits claimed by all taxpayers for all prior tax years for those contributions under this section and section 261 of the income tax act of 1967, Act No. 281 of the Public Acts of 1967, exceeds \$1,500,000.00.

(6) On or before July 1 of each year, the department shall report to the house committee on taxation and the senate committee on finance the total amount of tax credits claimed under this section and under section 261 of the income tax act of 1967, Act No. 281 of the Public Acts of 1967, for the preceding tax year.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved

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Governor.