



HOUSE BILL No. 4231

January 30, 1995, Introduced by Reps. Kukuk, Profit, Perricone, Bush, Whyman, Goschka, Horton, Bullard, Munsell, Cropsey, Kaza, Gernaat, Jaye, Crissman, Hammerstrom, Brackenridge, Johnson, Rocca, Wetters, Anthony, Bobier, Gnodtke, McBryde, Middaugh, Dalman, Dolan, Law, McManus, Pitoniak, London, Hill, Middleton, Galloway, Cherry, Baird, Brater, Martinez, Hanley, LaForge, Dobb, Brewer, DeHart, Llewellyn, Tesanovich, Bodem, Oxender, Fitzgerald, Jellema, Sikkema, Rhead and Randall and referred to the Committee on Tax Policy.

A bill to amend sections 260 and 261 of Act No. 281 of the Public Acts of 1967, entitled "Income tax act of 1967," section 260 as amended by Act No. 153 of the Public Acts of 1988 and section 261 as amended by Act No. 256 of the Public Acts of 1994, being sections 206.260 and 206.261 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 260 and 261 of Act No. 281 of the
2 Public Acts of 1967, section 260 as amended by Act No. 153 of the
3 Public Acts of 1988 and section 261 as amended by Act No. 256 of
4 the Public Acts of 1994, being sections 206.260 and 206.261 of
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 260. (1) A taxpayer may credit against the tax imposed
7 by this act for the taxable year, an amount, subject to the

1 applicable limitations provided by this section, equal to 50% of
2 the aggregate amount of charitable contributions OF CASH OR ART-
3 WORK AS PROVIDED IN THIS SECTION made by the taxpayer during the
4 year to any of the following:

5 (a) This state pursuant to the Faxon-McNamee art in public
6 places act, Act No. 105 of the Public Acts of 1980, being sec-
7 tions 18.71 to 18.81 of the Michigan Compiled Laws, of an artwork
8 created by the taxpayer, for display in a public place.

9 (b) The state art in public places fund created pursuant to
10 Act No. 105 of the Public Acts of 1980.

11 (c) A municipality in this state of an artwork created by
12 the personal effort of the taxpayer for display in a public
13 place.

14 (d) Either a municipality of this state or a nonprofit cor-
15 poration affiliated with both a municipality and an art institute
16 located in the municipality, of money or artwork, whether or not
17 created by the personal effort of the taxpayer, if for the pur-
18 pose of benefiting an art institute located in that
19 municipality.

20 (e) A public library.

21 (f) A public broadcast station as defined by section 397 of
22 subpart ~~d~~ E OF PART IV of title III of the communications act
23 of 1934, CHAPTER 652, 76 STAT. 67, 47 U.S.C. 397, that is not
24 affiliated with an institution of higher education and that is
25 located within this state.

26 (g) An institution of higher learning located within this
27 state.

(h) The Michigan colleges foundation.

(i) The state museum.

(j) The department of state for the purpose of preservation of the state archives.

(k) A nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within this state. A tax credit for a contribution described in this subdivision is permitted only if the donee corporation, fund, foundation, trust, or association is controlled or approved and reviewed by the governing board of the institution benefiting from the charitable contribution. The nonprofit corporation, fund, foundation, trust, or association shall provide copies of its annual independently audited financial statements to the auditor general of this state and chairpersons of the senate and house appropriations committees.

(2) For a taxpayer other than a resident estate or trust, the amount allowable as a credit under this section for a taxable year shall not exceed THE FOLLOWING AMOUNTS FOR THE FOLLOWING YEARS:

(A) FOR TAX YEARS BEFORE THE 1995 TAX YEAR, \$100.00, or for a husband and wife filing a joint return as provided in section 311, \$200.00.

(B) FOR TAX YEARS AFTER THE 1994 TAX YEAR, \$150.00, OR FOR A HUSBAND AND WIFE FILING A JOINT RETURN AS PROVIDED IN SECTION 311, \$300.00.

1 (3) For a resident estate or trust, the amount allowable as
2 a credit under this section for a taxable year shall not exceed
3 10% of the tax liability for the year as determined without
4 regard to this section or \$5,000.00, whichever is less.

5 (4) For the purpose of this section, "institution of higher
6 learning" means only an educational institution located within
7 this state meeting all of the following requirements:

8 (a) It maintains a regular faculty and curriculum and has a
9 regularly enrolled body of students in attendance at the place
10 where its educational activities are carried on.

11 (b) It regularly offers education above the twelfth grade.

12 (c) It awards associate, bachelors, masters, or doctoral
13 degrees or a combination of those degrees or higher education
14 credits acceptable for those degrees granted by other institu-
15 tions of higher learning.

16 (d) It is recognized by the state board of education as an
17 institution of higher learning and appears as such in the annual
18 publication of the department of education entitled "The
19 Directory of Institutions of Higher Education".

20 (5) "Public library" means that term as defined in section 2
21 of the state aid to public libraries act, Act No. 89 of the
22 Public Acts of 1977, being section 397.552 of the Michigan
23 Compiled Laws.

24 (6) As used in subsection (1), "contributions made by the
25 taxpayer" includes, but is not limited to, the fair market value
26 of artwork created by the personal effort of the taxpayer that is
27 donated to and accepted as a donation by a qualified

1 organization. The fair market value of a piece of artwork shall
2 be determined at the time of the donation by independent
3 appraisal. For purposes of this subsection and subsection (1),
4 "artwork" means an original, visual creation of quality executed
5 in any size or shape, in any media, using any kind or type of
6 materials.

7 (7) The sum of the credits allowed by section 257 and this
8 section shall not be in excess of the tax liability of the
9 taxpayer.

10 Sec. 261. (1) For the 1989 through 1997 tax years and
11 subject to the limitations in subsections (2), ~~to (6)~~ (4), (5),
12 (6), AND (8), a taxpayer may credit against the tax imposed by
13 this act 50% of the amount the taxpayer contributes during the
14 taxable year to an endowment fund of a community foundation or
15 for the 1992 through 1997 tax years and subject to the limita-
16 tions in subsections ~~(2),~~ (3), ~~and~~ (4), (5), (7), AND (8), a
17 taxpayer may credit against the tax imposed by this act 50% of
18 the cash amount the taxpayer contributes during the taxable year
19 to a shelter for homeless persons, food kitchen, food bank, or
20 other entity, the primary purpose of which is to provide over-
21 night accommodation, food, or meals to persons who are indigent
22 if a contribution to that entity is tax deductible for the donor
23 under the internal revenue code.

24 (2) For a taxpayer other than a resident estate or trust,
25 the credit allowed by this section for a contribution to a commu-
26 nity foundation shall not exceed THE FOLLOWING AMOUNTS FOR THE
27 FOLLOWING PERIODS:

1 (A) FOR EACH TAX YEAR BEFORE THE 1995 TAX YEAR, \$100.00, or
2 \$200.00 for a husband and wife filing a joint return.

3 (B) FOR EACH TAX YEAR AFTER THE 1994 TAX YEAR, \$150.00, OR
4 \$300.00 FOR A HUSBAND AND WIFE FILING A JOINT RETURN.

5 (3) For the 1992 tax year and each tax year after 1992, a
6 taxpayer may claim an additional credit under this section ~~not~~
7 ~~to exceed \$100.00, or \$200.00 for a husband and wife filing a~~
8 ~~joint return,~~ for total cash contributions made in the tax year
9 to shelters for homeless persons, food kitchens, food banks, and,
10 except for community foundations, other entities allowed under
11 subsection (1) ~~—~~ NOT TO EXCEED THE FOLLOWING AMOUNTS FOR THE
12 FOLLOWING PERIODS:

13 (A) FOR EACH TAX YEAR BEFORE THE 1995 TAX YEAR, \$100.000, OR
14 \$200.00 FOR A HUSBAND AND WIFE FILING A JOINT RETURN.

15 (B) FOR EACH TAX YEAR AFTER THE 1994 TAX YEAR, \$150.00, OR
16 \$300.00 FOR A HUSBAND AND WIFE FILING A JOINT RETURN.

17 (4) For a resident estate or trust, the credit allowed by
18 this section for a contribution to a community foundation shall
19 not exceed 10% of the taxpayer's tax liability for the tax year
20 before claiming any credits allowed by this act or \$5,000.00,
21 whichever is less. For the 1992 tax year and each tax year after
22 1992, a resident estate or trust may claim an additional credit
23 under this section not to exceed 10% of the taxpayer's tax
24 liability for the tax year before claiming any credits allowed by
25 this act or \$5,000.00, whichever is less, for total cash contri-
26 butions made in the tax year to shelters for homeless persons,

1 food kitchens, food banks, and, except for community foundations,
2 other entities allowed under subsection (1).

3 (5) ~~-(3)-~~ The credits allowed by this section are nonrefund-
4 able so that a taxpayer shall not claim under this section a
5 total credit amount that reduces the taxpayer's tax liability to
6 less than zero.

7 (6) ~~-(4)-~~ As used in this section, "community foundation"
8 means an organization that applies for certification on or before
9 April 1 of the tax year for which the taxpayer is claiming the
10 credit and that the department certifies for that tax year as
11 meeting all of the following requirements:

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

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

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

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

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

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

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

7 (7) ~~-(5)-~~ An entity other than a community foundation may
 8 request that the department determine if a contribution to that
 9 entity qualifies for the credit under this section. The depart-
 10 ment shall make a determination and respond to a request no later
 11 than 30 days after the department receives the request.

12 (8) ~~-(6)-~~ On or before July 1 of each year, the department
 13 shall report to the house committee on taxation and the senate
 14 committee on finance the total amount of tax credits claimed
 15 under this section and under section 38c of the single business
 16 tax act, Act No. 228 of the Public Acts of 1975, for the immedi-
 17 ately preceding tax year.

18 Section 2. This amendatory act shall not take effect unless
 19 all of the following bills of the 88th Legislature are enacted
 20 into law:

21 (a) Senate Bill No. _____ or House Bill No. 4233
 22 (request no. 02873'95 *).

23 (b) Senate Bill No. _____ or House Bill No. 4232
 24 (request no. 01554'95 *).

25 (c) Senate Bill No. _____ or House Bill No. 4234
 26 (request no. 01548'95 *).

1 (d) Senate Bill No. _____ or House Bill No. 4228
2 (request no. 01556'95).

3 (e) Senate Bill No. _____ or House Bill No: 4230
4 (request no. 01478'95 *).

5 (f) Senate Bill No. _____ or House Bill No. 4229
6 (request no. 01758'95).