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Senate Bill 796 (as enrolled)
Sponsor: Senator Bill Schuette
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACT 195 of 2000

Date Completed: 2-14-01

RATIONALE

Under the Income Tax Act, since 1989 a taxpayer has been allowed to claim a credit against the income tax equal to 50% of the amount the taxpayer contributed during a tax year to community foundations. The maximum amount a taxpayer may claim is \$100 (\$200 for a joint return); a resident estate or trust may claim up to 10% of tax liability or \$5,000, whichever is less. The credit for foundations has been a useful tool for raising money for community causes, and has been used for various public services. According to the Michigan Department of Treasury, there were 61 certified community foundations and 36 geographic affiliate funds in the State for the 1998 tax year; the total assets of community foundation endowments were \$1.2 billion, which allowed community foundations to issue significant grants to local communities.

Under the Act, a community foundation must be certified by the Department as meeting certain criteria. For instance, it must qualify for exemption from the Federal income tax under Section 401(c)(3) of the Internal Revenue Code, support a broad range of charitable activities within a specific geographic area, and maintain a program to attract new endowment funds. It was suggested that, to ensure that all community foundations are legitimate organizations and to strengthen their operation, additional qualification requirements should be placed on community foundations.

CONTENT

The bill amended the Income Tax Act to expand the eligibility criteria that an entity must meet to be certified as a community foundation.

Previously, a community foundation had to be incorporated or established as a trust before September 1 of the year preceding the tax year for which the credit was claimed. The bill instead requires incorporation or establishment at least six months before the beginning of the tax year for which the credit is claimed, and requires a community foundation to have an endowment value of at least

\$100,000 within 18 months after the foundation is incorporated or established. The bill also requires a community foundation to meet the following to qualify for certification:

- Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.
- Provides evidence to the Department that the community foundation has, within six months after it is incorporated or established, and maintains continually during the tax year for which the credit is claimed, at least one part-time or full-time paid employee.
- For community foundations that have an endowment value of \$1 million or more only, is subject to an annual independent financial audit, and provides copies of that audit to the Department within three months after its completion.
- For community foundations that have an endowment value of less than \$1 million, is subject to an annual review and an audit every third year.
- For a community foundation that is incorporated or established after the bill's effective date, operates in a county that was not served by a community foundation when the community foundation was incorporated or established, or operates as a geographic component of an existing certified community foundation.

A taxpayer may claim credit for contributions to a community foundation made before expiration of the 18-month period after it was incorporated or established during which the community foundation must build an endowment value of \$100,000. If the community foundation does not reach the required endowment value during the 18-month period, contributions made to the community foundation after that period cannot be used to calculate a credit. At any time after the 18-month period that the community foundation has an endowment value of \$100,000, it may apply to the Department for certification.

Under the Act, one of the criteria for certification requires a community foundation to be publicly supported, as defined by U.S. Department of Treasury regulations. The bill provides that to maintain certification, a community foundation each year must submit to the Michigan Department of Treasury documentation that demonstrates compliance with this requirement.

Therefore, this bill has no fiscal implications for State or local governments.

Fiscal Analyst: J. Wortley

MCL 206.261

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Community foundations provide assistance to various charitable organizations active within many Michigan communities. Their funds have been used to pursue such varied and desirable efforts such as crime reduction, the provision of affordable housing, educational assistance, and the promotion of economic development activities. Community foundations perform a valuable public service that the State otherwise would be expected to provide. Further, community foundations offer unique opportunities for charitable giving because of their endowment nature. Contributions to a foundation can be thought of as a permanent gift to the community. Usually, funds spent by a foundation within a community come from the interest generated on the foundation's endowment fund. Annual contributions to a fund enlarge it, enabling the interest to grow and make more money available each year.

By increasing the qualification requirements in the Act, the bill will help to ensure that all community foundations are valid and legitimate organizations, and are operated efficiently and properly. The additional criteria reinforce the role of community foundations as permanent tools to help their communities grow, promote basic financial standards and accountability, and encourage communities to work together. Thus, the bill further ensures that tax-exempt gifts to community foundations are going to benefit the communities in which the donations are made.

Legislative Analyst: N. Nagata

FISCAL IMPACT

Based on information from the Department of Treasury, the changes made by this bill will not disqualify any of the community foundations currently certified for the community foundation credit.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.