

SENATE BILL No. 796

October 12, 1999, Introduced by Senators SCHUETTE, JOHNSON, HAMMERSTROM, GOSCHKA, MC COTTER, BENNETT, SIKKEMA, SHUGARS, DUNASKISS, STEIL, BULLARD, STILLE, HOFFMAN, NORTH, MC MANUS, PETERS, LELAND, VAUGHN, CHERRY, DE BEAUSSAERT, A. SMITH, BYRUM, HART, SCHWARZ, EMERSON and JAYE and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 261 (MCL 206.261), as amended by 1996 PA
484.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 261. (1) For the 1989 tax year and each tax year after
2 1989 and subject to the APPLICABLE limitations in
3 ~~subsections (2) to (6)~~ THIS SECTION, a taxpayer may credit
4 against the tax imposed by this act 50% of the amount the tax-
5 payer contributes during the tax year to an endowment fund of a
6 community foundation or for the 1992 tax year and each tax year
7 after 1992 and subject to the APPLICABLE limitations in
8 ~~subsections (2), (3), and (5)~~ THIS SECTION, a taxpayer may
9 credit against the tax imposed by this act 50% of the cash amount
10 the taxpayer contributes during the tax year to a shelter for

1 homeless persons, food kitchen, food bank, or other entity
2 located in this state, the primary purpose of which is to provide
3 overnight accommodation, food, or meals to persons who are indi-
4 gent if a contribution to that entity is tax deductible for the
5 donor under the internal revenue code.

6 (2) For a taxpayer other than a resident estate or trust,
7 the credit allowed by this section for a contribution to a commu-
8 nity foundation shall not exceed \$100.00, or \$200.00 for a hus-
9 band and wife filing a joint return, FOR TAX YEARS BEFORE THE
10 1999 TAX YEAR, AND \$150.00, OR \$300.00 FOR A HUSBAND AND WIFE
11 FILING A JOINT RETURN, FOR TAX YEARS AFTER THE 1998 TAX YEAR.
12 For the 1992 tax year and each tax year after 1992, a taxpayer
13 may claim an additional credit under this section not to exceed
14 \$100.00, or \$200.00 for a husband and wife filing a joint return,
15 FOR TAX YEARS BEFORE THE 1999 TAX YEAR, AND \$150.00, OR \$300.00
16 FOR A HUSBAND AND WIFE FILING A JOINT RETURN, FOR TAX YEARS AFTER
17 THE 1998 TAX YEAR, for total cash contributions made in the tax
18 year to shelters for homeless persons, food kitchens, food banks,
19 and, except for community foundations, other entities allowed
20 under subsection (1). For a resident estate or trust, the credit
21 allowed by this section for a contribution to a community founda-
22 tion shall not exceed 10% of the taxpayer's tax liability for the
23 tax year before claiming any credits allowed by this act or
24 \$5,000.00, whichever is less. For the 1992 tax year and each tax
25 year after 1992, a resident estate or trust may claim an addi-
26 tional credit under this section not to exceed 10% of the
27 taxpayer's tax liability for the tax year before claiming any

1 credits allowed by this act or \$5,000.00, whichever is less, for
2 total cash contributions made in the tax year to shelters for
3 homeless persons, food kitchens, food banks, and, except for com-
4 munity foundations, other entities allowed under subsection (1).
5 For a resident estate or trust, the amount used to calculate the
6 credits under this section shall not have been deducted in arriv-
7 ing at federal taxable income.

8 (3) The credits allowed under this section are nonrefundable
9 so that a taxpayer shall not claim under this section a total
10 credit amount that reduces the taxpayer's tax liability to less
11 than zero.

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

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

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

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

25 (d) Is publicly supported as defined by the regulations of
26 the United States department of treasury, 26

27 C.F.R. 1.170A-9(e)(10). TO MAINTAIN CERTIFICATION, THE COMMUNITY

1 FOUNDATION SHALL SUBMIT DOCUMENTATION TO THE DEPARTMENT ANNUALLY
2 THAT DEMONSTRATES COMPLIANCE WITH THIS SUBDIVISION.

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

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

10 (g) Is incorporated or established as a trust ~~before~~
11 ~~September 1 of the year immediately preceding the tax year for~~
12 ~~which the credit is claimed~~ AT LEAST 6 MONTHS BEFORE THE BEGIN-
13 NING OF THE TAX YEAR FOR WHICH THE CREDIT UNDER THIS SECTION IS
14 CLAIMED AND THAT HAS AN ENDOWMENT VALUE OF AT LEAST \$25,000.00
15 BEFORE THE EXPIRATION OF 6 MONTHS AFTER THE COMMUNITY FOUNDATION
16 IS INCORPORATED OR ESTABLISHED.

17 (H) HAS AN INDEPENDENT GOVERNING BODY THAT IS BROADLY REPRE-
18 SENTATIVE OF GENERAL PUBLIC INTEREST AND IS NOT APPOINTED BY A
19 SINGLE ENTITY.

20 (I) PROVIDES EVIDENCE TO THE DEPARTMENT THAT THE COMMUNITY
21 FOUNDATION HAS, BEFORE THE EXPIRATION OF 6 MONTHS AFTER THE COM-
22 MUNITY FOUNDATION IS INCORPORATED OR ESTABLISHED, AND MAINTAINS
23 CONTINUALLY DURING THE TAX YEAR FOR WHICH THE CREDIT UNDER THIS
24 SECTION IS CLAIMED, AT LEAST 1 PART-TIME OR FULL-TIME PAID
25 EMPLOYEE.

26 (J) IS SUBJECT TO AN ANNUAL INDEPENDENT FINANCIAL REVIEW AND
27 AN INDEPENDENT FINANCIAL AUDIT EVERY 3 YEARS AND PROVIDES COPIES

1 OF THAT REVIEW AND AUDIT TO THE DEPARTMENT NOT MORE THAN 3 MONTHS
2 AFTER THE COMPLETION OF THE REVIEW OR AUDIT.

3 (K) IN ADDITION TO ALL OTHER CRITERIA LISTED IN THIS SUBSEC-
4 TION FOR A COMMUNITY FOUNDATION THAT IS INCORPORATED OR ESTAB-
5 LISHED AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
6 THIS SUBDIVISION, OPERATES IN A COUNTY OF THIS STATE THAT WAS NOT
7 SERVED BY A COMMUNITY FOUNDATION WHEN THE COMMUNITY FOUNDATION
8 WAS INCORPORATED OR ESTABLISHED OR OPERATES AS A GEOGRAPHIC COM-
9 PONENT OF AN EXISTING CERTIFIED COMMUNITY FOUNDATION.

10 (5) An entity other than a community foundation may request
11 that the department determine if a contribution to that entity
12 qualifies for the credit under this section. The department
13 shall make a determination and respond to a request no later than
14 30 days after the department receives the request.

15 (6) On or before July 1 of each year, the department shall
16 report to the house committee on tax policy and the senate
17 finance committee the total amount of tax credits claimed under
18 this section and under section 38c of the single business tax
19 act, ~~Act No. 228 of the Public Acts of 1975, being~~
20 ~~section 208.38c of the Michigan Compiled Laws~~ 1975 PA 228, MCL
21 208.38C, for the immediately preceding tax year.