

SENATE BILL No. 1424

November 9, 2000, Introduced by Senator SCHUETTE and referred to the Committee on Finance.

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 38c (MCL 208.38c), as amended by 1997
PA 190.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 38c. (1) For the 1989 tax year and each tax year after
2 the 1989 tax year and subject to the APPLICABLE limitations in
3 this section, a taxpayer who does not claim a credit under
4 section 261 of the income tax act of 1967, 1967 PA 281,
5 MCL 206.261, may credit against the tax imposed by this act 50%
6 of the amount the taxpayer contributes during the taxable year to
7 an endowment fund of a community foundation.

8 (2) The credit allowed by this section shall not exceed 5%
9 of the taxpayer's tax liability for the tax year before claiming
10 any credits allowed by this act or \$5,000.00, whichever is less.

1 (3) The credit allowed by this section is nonrefundable so
2 that a taxpayer shall not claim under this section a total credit
3 amount that reduces the taxpayer's tax liability to less than
4 zero.

5 (4) As used in this section, "community foundation" means an
6 organization that applies for certification on or before
7 ~~April 1~~ MAY 15 of the tax year for which the taxpayer is claim-
8 ing the credit and that the department certifies for that tax
9 year as meeting all of the following requirements:

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

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

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

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

20 C.F.R. 1.170A-9(e)(10). TO MAINTAIN CERTIFICATION, THE COMMUNITY
21 FOUNDATION SHALL SUBMIT DOCUMENTATION TO THE DEPARTMENT ANNUALLY
22 THAT DEMONSTRATES COMPLIANCE WITH THIS SUBDIVISION.

23 (e) Is not a supporting organization as ~~defined under~~ AN
24 ORGANIZATION IS DESCRIBED IN section 509(a)(3) of the internal
25 revenue code and the regulations of the United States department
26 of treasury, 26 C.F.R. 1.509(a)-4 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~~ EXCEPT AS PROVIDED IN SUBSECTION (6), IS incorpo-
5 rated or established as a trust ~~before September 1 of the year~~
6 ~~immediately preceding the tax year for which the credit is~~
7 ~~claimed.~~ AT LEAST 6 MONTHS BEFORE THE BEGINNING OF THE TAX YEAR
8 FOR WHICH THE CREDIT UNDER THIS SECTION IS CLAIMED AND THAT HAS
9 AN ENDOWMENT VALUE OF AT LEAST \$100,000.00 BEFORE THE EXPIRATION
10 OF 18 MONTHS AFTER THE COMMUNITY FOUNDATION IS INCORPORATED OR
11 ESTABLISHED.

12 (H) HAS AN INDEPENDENT GOVERNING BODY REPRESENTING THE GEN-
13 ERAL PUBLIC'S INTEREST AND THAT IS NOT APPOINTED BY A SINGLE OUT-
14 SIDE ENTITY.

15 (I) PROVIDES EVIDENCE TO THE DEPARTMENT THAT THE COMMUNITY
16 FOUNDATION HAS, BEFORE THE EXPIRATION OF 6 MONTHS AFTER THE COM-
17 MUNITY FOUNDATION IS INCORPORATED OR ESTABLISHED, AND MAINTAINS
18 CONTINUALLY DURING THE TAX YEAR FOR WHICH THE CREDIT UNDER THIS
19 SECTION IS CLAIMED, AT LEAST 1 PART-TIME OR FULL-TIME EMPLOYEE.

20 (J) FOR COMMUNITY FOUNDATIONS THAT HAVE AN ENDOWMENT VALUE
21 OF \$1,000,000.00 OR MORE ONLY, THE COMMUNITY FOUNDATION IS
22 SUBJECT TO AN ANNUAL INDEPENDENT FINANCIAL AUDIT AND PROVIDES
23 COPIES OF THAT AUDIT TO THE DEPARTMENT NOT MORE THAN 3 MONTHS
24 AFTER THE COMPLETION OF THE AUDIT. FOR COMMUNITY FOUNDATIONS
25 THAT HAVE AN ENDOWMENT VALUE OF LESS THAN \$1,000,000.00, THE COM-
26 MUNITY FOUNDATION IS SUBJECT TO AN ANNUAL REVIEW AND AN AUDIT
27 EVERY THIRD YEAR.

1 (K) IN ADDITION TO ALL OTHER CRITERIA LISTED IN THIS
2 SUBSECTION FOR A COMMUNITY FOUNDATION THAT IS INCORPORATED OR
3 ESTABLISHED AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
4 ADDED THIS SUBDIVISION, OPERATES IN A COUNTY OF THIS STATE THAT
5 WAS NOT SERVED BY A COMMUNITY FOUNDATION WHEN THE COMMUNITY FOUN-
6 DATION WAS INCORPORATED OR ESTABLISHED OR OPERATES AS A GEO-
7 GRAPHIC COMPONENT OF AN EXISTING CERTIFIED COMMUNITY FOUNDATION.

8 (5) On or before July 1 of each year, the department shall
9 report to the house of representatives committee on taxation and
10 the senate committee on finance the total amount of tax credits
11 claimed under this section and under section 261 of the income
12 tax act of 1967, 1967 PA 281, MCL 206.261, for the immediately
13 preceding tax year.

14 (6) A TAXPAYER MAY CLAIM A CREDIT UNDER THIS SECTION FOR
15 CONTRIBUTIONS TO A COMMUNITY FOUNDATION MADE BEFORE THE EXPIRA-
16 TION OF THE 18-MONTH PERIOD AFTER A COMMUNITY FOUNDATION WAS
17 INCORPORATED OR ESTABLISHED DURING WHICH THE COMMUNITY FOUNDATION
18 MUST BUILD AN ENDOWMENT VALUE OF \$100,000.00 AS PROVIDED IN
19 SUBSECTION (4)(G). IF THE COMMUNITY FOUNDATION DOES NOT REACH
20 THE REQUIRED \$100,000.00 ENDOWMENT VALUE DURING THAT 18-MONTH
21 PERIOD, CONTRIBUTIONS TO THE COMMUNITY FOUNDATION MADE AFTER THE
22 DATE ON WHICH THE 18-MONTH PERIOD EXPIRES SHALL NOT BE USED TO
23 CALCULATE A CREDIT UNDER THIS SECTION. AT ANY TIME AFTER THE
24 EXPIRATION OF THE 18-MONTH PERIOD UNDER SUBSECTION (4)(G) THAT
25 THE COMMUNITY FOUNDATION HAS AN ENDOWMENT VALUE OF \$100,000.00,
26 THE COMMUNITY FOUNDATION MAY APPLY TO THE DEPARTMENT FOR
27 CERTIFICATION UNDER THIS SECTION.