

SENATE BILL No. 150

January 31, 2007, Introduced by Senators ALLEN, GARCIA, BROWN, KUIPERS, BIRKHOLZ, JANSEN, RICHARDVILLE and VAN WOERKOM 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 2000 PA 195.

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 this section, a
3 taxpayer may credit against the tax imposed by this act 50% of the
4 amount the taxpayer contributes during the tax year to an endowment
5 fund of a community foundation or for the 1992 tax year and each
6 tax year after 1992 and subject to the applicable limitations in
7 this section, a taxpayer may credit against the tax imposed by this
8 act 50% of the **SUM OF THE** cash amount **AND OF THE VALUE OF FOOD**
9 **ITEMS** the taxpayer contributes during the tax year to a shelter for
10 homeless persons, food kitchen, food bank, or other entity located

1 in this state, the primary purpose of which is to provide overnight
2 accommodation, food, or meals to persons who are indigent if a
3 contribution to that entity is tax deductible for the donor under
4 the internal revenue code.

5 (2) For a taxpayer other than a resident estate or trust, the
6 credit allowed by this section for a contribution to a community
7 foundation shall not exceed \$100.00, or \$200.00 for a husband and
8 wife filing a joint return for tax years before the 2000 tax year
9 and \$100.00 or \$200.00 for a husband and wife filing a joint return
10 for tax years after the 1999 tax year. For the 1992 tax year and
11 each tax year after 1992, a taxpayer may claim an additional credit
12 under this section not to exceed \$100.00, or \$200.00 for a husband
13 and wife filing a joint return, for total cash contributions made
14 **AND THE VALUE OF FOOD ITEMS CONTRIBUTED** in the tax year to shelters
15 for homeless persons, food kitchens, food banks, and, except for
16 community foundations, other entities allowed under subsection (1).
17 For a resident estate or trust, the credit allowed by this section
18 for a contribution to a community foundation shall not exceed 10%
19 of the taxpayer's tax liability for the tax year before claiming
20 any credits allowed by this act or \$5,000.00, whichever is less.
21 For the 1992 tax year and each tax year after 1992, a resident
22 estate or trust may claim an additional credit under this section
23 not to exceed 10% of the taxpayer's tax liability for the tax year
24 before claiming any credits allowed by this act or \$5,000.00,
25 whichever is less, for total cash contributions made **AND THE VALUE**
26 **OF FOOD ITEMS CONTRIBUTED** in the tax year to shelters for homeless
27 persons, food kitchens, food banks, and, except for community

1 foundations, other entities allowed under subsection (1). For a
2 resident estate or trust, the amount used to calculate the credits
3 under this section shall not have been deducted in arriving at
4 federal taxable income.

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

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

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

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

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

22 (d) Is publicly supported as defined by the regulations of the
23 United States department of treasury, 26 ~~C.F.R.~~ **CFR** 1.170A-
24 9(e)(10). To maintain certification, the community foundation shall
25 submit documentation to the department annually that demonstrates
26 compliance with this subdivision.

27 (e) Is not a supporting organization as an organization is

1 described in section 509(a)(3) of the internal revenue code and the
2 regulations of the United States department of treasury, ~~26 C.F.R.~~
3 **CFR** 1.509(a)-4 and 1.509(a)-5.

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

7 (g) Except as provided in subsection (6), is incorporated or
8 established as a trust at least 6 months before the beginning of
9 the tax year for which the credit under this section is claimed and
10 that has an endowment value of at least \$100,000.00 before the
11 expiration of 18 months after the community foundation is
12 incorporated or established.

13 (h) Has an independent governing body representing the general
14 public's interest and that is not appointed by a single outside
15 entity.

16 (i) Provides evidence to the department that the community
17 foundation has, before the expiration of 6 months after the
18 community foundation is incorporated or established, and maintains
19 continually during the tax year for which the credit under this
20 section is claimed, at least 1 part-time or full-time employee.

21 (j) For community foundations that have an endowment value of
22 \$1,000,000.00 or more only, the community foundation is subject to
23 an annual independent financial audit and provides copies of that
24 audit to the department not more than 3 months after the completion
25 of the audit. For community foundations that have an endowment
26 value of less than \$1,000,000.00, the community foundation is
27 subject to an annual review and an audit 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~~ **JUNE 22, 2000**, operates in a county of this
5 state that was not served by a community foundation when the
6 community foundation was incorporated or established or operates as
7 a geographic component of an existing certified community
8 foundation.

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

14 (6) A taxpayer may claim a credit under this section for
15 contributions to a community foundation made before the expiration
16 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 the
20 required \$100,000.00 endowment value during that 18-month period,
21 contributions to the community foundation made after the date on
22 which the 18-month period expires shall not be used to calculate a
23 credit under this section. At any time after the expiration of the
24 18-month period under subsection (4)(g) that the community
25 foundation has an endowment value of \$100,000.00, the community
26 foundation may apply to the department for certification under this
27 section.

1 (7) On or before July 1 of each year, the department shall
2 report to the house committee on tax policy and the senate finance
3 committee the total amount of tax credits claimed under this
4 section and under section 38c of the single business tax act, 1975
5 PA 228, MCL 208.38c, for the immediately preceding tax year.