



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 405 (as introduced 5-24-17)
Sponsor: Senator Tonya Schuitmaker
Committee: Finance

Date Completed: 11-20-17

CONTENT

The bill would amend Part 1 of the Income Tax Act to allow a taxpayer to claim a credit against the income tax for tax years beginning after January 1, 2018, for donations of cash and food to a homeless shelter, food bank, or food kitchen, and for contributions to a community foundation meeting certain criteria.

(Part 1 of the Act imposes a tax on the income of individuals and noncorporate entities.)

Specifically, the bill would allow a credit for up to 50% of the sum of the cash amount and, if food items were contributed in conjunction with a program in which a vendor makes a matching contribution of similar items, the value of those food items the taxpayer contributed during the tax year to a shelter for homeless individuals, food kitchen, food bank, or other entity located in Michigan whose primary purpose is to provide overnight accommodation, food, or meals to indigent people, if a contribution to that entity were tax deductible for the donor under the Internal Revenue Code.

For a taxpayer other than a resident estate or trust, the credit allowed under the bill for a contribution to a community foundation could not exceed \$100, or \$200 for a joint return. A taxpayer could claim an additional credit not to exceed \$100, or \$200 for a joint return, for total cash contributions made, including the value of food items contributed as described above, in the tax year to shelters for homeless individuals, food kitchens, food banks, and, except for community foundations, other entities described above.

A resident estate or trust could claim a credit not to exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by the Act or \$5,000, whichever was less, for total cash contributions made, including the value of food items contributed as described above, in the tax year to homeless shelters, food kitchens, food banks, and, except for community foundations, other entities described above. For a resident estate or trust, the amount used to calculate the proposed credits could not have been deducted in arriving at Federal taxable income.

When calculating the amount of the credit allowed under the bill, a taxpayer could include as a cash contribution an amount equal to the value of food items contributed as described above in the tax year to a homeless shelter, food kitchen, food bank, or other entity located in Michigan described above.

If the amount of the credits allowed under the bill exceeded the tax liability of the taxpayer for the tax year, the excess portion could not be refunded.

An entity other than a community foundation could request that the Department of Treasury determine if a contribution to that entity qualified for the proposed credit. The Department would be required to make a determination and respond to a request within 30 days after it received the request.

A taxpayer could claim a credit under the bill for contributions to a community foundation made within an 18-month period after a community foundation was incorporated or established. During that 18-month period, the community foundation would have to build an endowment value of \$100,000. If the community foundation did not reach the required endowment value during that period, contributions to the community foundation made after the date on which the 18-month period expired could not be used to calculate a credit under the bill. If the community foundation had an endowment value of \$100,000 at any time after the 18-month period expired, the foundation could apply to the Department for certification.

By July 1 of each year, the Department would be required to report to the House Committee on Tax Policy and the Senate Finance Committee the total amount of tax credits claimed under the bill for the immediately preceding tax year.

"Community foundation" would mean an organization that applies for certification on or before May 15 of the tax year for which the taxpayer is claiming the credit, and that the Department certifies for that tax year as meeting all of the following requirements:

- Qualifies for exemption from Federal income taxation under Section 501(c)(3) of the Internal Revenue Code (which generally applies to nonprofit, charitable organizations).
- Supports a broad range of charitable activities within the specific geographic area of Michigan that it serves, such as a municipality or county.
- Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.
- Is publicly supported as defined by the regulations of the U.S. Department of Treasury.
- Is not a supporting organization as described in Section 509(a)(3) of the Internal Revenue Code and U.S. Department of Treasury regulations (i.e., a charity that carries out its exempt purposes by supporting other exempt organizations, usually other public charities).
- Meets all of the requirements for treatment as a single entity contained in regulations of the U.S. Department of Treasury, 26 CFR 1.170A-9(F)(11), and annually submits to the Michigan Department of Treasury documentation demonstrating compliance with these requirements.
- Except as provided in the bill, is incorporated or established as a trust at least six months before the beginning of the tax year for which the proposed credit is claimed and has an endowment value of at least \$100,000 within 18 months after the community foundation is incorporated or established.
- Has an independent governing body representing the general public's interest that is not appointed by a single outside entity.
- Gives the Michigan Department of Treasury evidence that the community foundation has, within six months after it is created, and maintains continually during the tax year for which the proposed credit is claimed, at least one part-time or full-time employee.

Also, a community foundation having an endowment value of \$1.0 million or more would be subject to an annual independent financial audit and would have to provide copies of that audit to the Department within three months after its completion. A community foundation with an endowment value of less than \$1.0 million would be subject to an annual review and an audit every third year.

In addition to all other criteria listed in the bill, a community foundation that was incorporated or established after June 22, 2000, would have to be operated in a Michigan county that was not served by a community foundation when the community foundation was incorporated or established or operated as a geographic component of an existing certified community foundation.

Proposed MCL 206.261

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would reduce General Fund revenue by approximately \$22.0 million per year. Between tax years 2006 and 2011, the number of returns claiming the credit for contributions to homeless shelters and food banks remained relative stable, at approximately 234,500 each year, as did the number of returns claiming the community foundation credit, at approximately 38,900. Similarly, the total amount claimed each year under each credit remained stable, at approximately \$18.7 million for the homeless shelter/food bank credit and approximately \$3.3 million for the community foundation credit. Although the School Aid Fund receives revenue from the income tax under Part 1 of the Act, credits are applied against the portion received by the General Fund. As a result, all of the reduction in revenue under the bill would lower General Fund revenue.

Fiscal Analyst: David Zin

SAS\S1718\sb405sa

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.