

HOUSE BILL No. 6434

October 4, 2018, Introduced by Rep. Iden and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.713) by adding section 261.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 261. (1) FOR TAX YEARS BEGINNING ON AND AFTER JANUARY 1,**
2 **2019, A TAXPAYER MAY CREDIT AGAINST THE TAX IMPOSED BY THIS PART**
3 **FOR THE TAX YEAR AN AMOUNT, SUBJECT TO THE APPLICABLE LIMITATIONS**
4 **UNDER THIS SECTION, EQUAL TO 50% OF THE AMOUNT THE TAXPAYER**
5 **CONTRIBUTES DURING THE TAX YEAR TO A COMMUNITY FOUNDATION. FOR A**
6 **TAXPAYER OTHER THAN A RESIDENT ESTATE OR TRUST, THE CREDIT ALLOWED**
7 **UNDER THIS SUBSECTION SHALL NOT EXCEED \$100.00, OR \$200.00 FOR A**
8 **JOINT RETURN. FOR A RESIDENT ESTATE OR TRUST, THE CREDIT ALLOWED**
9 **UNDER THIS SUBSECTION SHALL NOT EXCEED 10% OF THE TAXPAYER'S TAX**

1 LIABILITY FOR THE TAX YEAR BEFORE CLAIMING ANY CREDITS ALLOWED BY
2 THIS PART OR \$5,000.00, WHICHEVER IS LESS. FOR A RESIDENT ESTATE OR
3 TRUST, THE AMOUNT USED TO CALCULATE THE CREDITS UNDER THIS SECTION
4 SHALL NOT HAVE BEEN DEDUCTED IN ARRIVING AT FEDERAL TAXABLE INCOME.

5 (2) IF THE AMOUNT OF THE CREDITS ALLOWED UNDER THIS SECTION
6 EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THE
7 PORTION THAT EXCEEDS THE TAX LIABILITY SHALL NOT BE REFUNDED.

8 (3) ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT SHALL
9 REPORT TO THE HOUSE COMMITTEE ON TAX POLICY AND THE SENATE FINANCE
10 COMMITTEE THE TOTAL AMOUNT OF TAX CREDITS CLAIMED UNDER THIS
11 SECTION FOR THE IMMEDIATELY PRECEDING TAX YEAR.

12 (4) AS USED IN THIS SECTION, "COMMUNITY FOUNDATION" MEANS AN
13 ORGANIZATION THAT APPLIES FOR CERTIFICATION ON OR BEFORE MAY 15 OF
14 THE TAX YEAR FOR WHICH THE TAXPAYER IS CLAIMING THE CREDIT AND THAT
15 THE DEPARTMENT CERTIFIES FOR THAT TAX YEAR AS MEETING ALL OF THE
16 FOLLOWING REQUIREMENTS:

17 (A) HAS BEEN IN EXISTENCE FOR AT LEAST 10 YEARS AND HAS ASSETS
18 OF AT LEAST \$1,000,000.00.

19 (B) QUALIFIES FOR EXEMPTION FROM FEDERAL INCOME TAXATION UNDER
20 SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE.

21 (C) SUPPORTS A BROAD RANGE OF CHARITABLE ACTIVITIES WITHIN THE
22 SPECIFIC GEOGRAPHIC AREA OF THIS STATE THAT IT SERVES, SUCH AS A
23 MUNICIPALITY OR COUNTY.

24 (D) MAINTAINS AN ONGOING PROGRAM TO ATTRACT NEW ENDOWMENT
25 FUNDS BY SEEKING GIFTS AND BEQUESTS FROM A WIDE RANGE OF POTENTIAL
26 DONORS IN THE GEOGRAPHIC AREA SERVED.

27 (E) IS PUBLICLY SUPPORTED AS DEFINED BY 26 CFR 1.170A-9(F). TO

1 MAINTAIN CERTIFICATION, THE COMMUNITY FOUNDATION SHALL SUBMIT
2 DOCUMENTATION TO THE DEPARTMENT ANNUALLY THAT DEMONSTRATES
3 COMPLIANCE WITH THIS SUBPARAGRAPH.

4 (F) IS NOT AN ORGANIZATION AS DESCRIBED IN SECTION 509(A) (3)
5 OF THE INTERNAL REVENUE CODE.

6 (G) MEETS THE REQUIREMENTS FOR TREATMENT AS A SINGLE ENTITY
7 CONTAINED UNDER 26 CFR 1.170A-9(F) (11).

8 (H) HAS AN INDEPENDENT GOVERNING BODY REPRESENTING THE GENERAL
9 PUBLIC'S INTEREST AND THAT IS NOT APPOINTED BY A SINGLE OUTSIDE
10 ENTITY.

11 (I) PROVIDES EVIDENCE TO THE DEPARTMENT THAT THE COMMUNITY
12 FOUNDATION MAINTAINS CONTINUALLY DURING THE TAX YEAR FOR WHICH THE
13 CREDIT UNDER THIS SECTION IS CLAIMED AT LEAST 1 PART-TIME OR FULL-
14 TIME EMPLOYEE.

15 (J) IS SUBJECT TO AN ANNUAL INDEPENDENT FINANCIAL AUDIT AND
16 PROVIDES COPIES OF THAT AUDIT TO THE DEPARTMENT NOT MORE THAN 3
17 MONTHS AFTER THE COMPLETION OF THE AUDIT.

18 (K) IN ADDITION TO ALL OTHER CRITERIA LISTED IN THIS
19 SUBSECTION FOR A COMMUNITY FOUNDATION THAT IS INCORPORATED OR
20 ESTABLISHED AFTER JANUARY 9, 2001, OPERATES IN A COUNTY OF THIS
21 STATE THAT WAS NOT SERVED BY A COMMUNITY FOUNDATION WHEN THE
22 COMMUNITY FOUNDATION WAS INCORPORATED OR ESTABLISHED OR OPERATES AS
23 A GEOGRAPHIC COMPONENT OF AN EXISTING CERTIFIED COMMUNITY
24 FOUNDATION.

25 Enacting section 1. This amendatory act does not take effect
26 unless Senate Bill No. ____ or House Bill No. 6433 (request no.
27 06983'18) of the 99th Legislature is enacted into law.