

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 705

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 38c (MCL 208.38c), as amended by 1994 PA
231.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 38c. (1) For the 1989 ~~through 1997 tax years~~ TAX
2 YEAR AND EACH TAX YEAR AFTER THE 1989 TAX YEAR and subject to the
3 limitations in ~~subsections (2), (3), and (5),~~ THIS SECTION, a
4 taxpayer who does not claim a credit under section 261 of the
5 income tax act of 1967, ~~Act No. 281 of the Public Acts of 1967,~~
6 ~~being section 206.261 of the Michigan Compiled Laws~~ 1967 PA 281,
7 MCL 206.261, may credit against the tax imposed by this act 50%
8 of the amount the taxpayer contributes during the taxable year to
9 an endowment fund of a community foundation. ~~or, for the 1992~~
10 ~~through 1997 tax years and subject to the limitations in~~

1 ~~subsections (2) and (4), a taxpayer may credit against the tax~~
2 ~~imposed by this act 50% of the cash amount the taxpayer contrib-~~
3 ~~utes during the taxable year to a shelter for homeless persons,~~
4 ~~food kitchen, food bank, or other entity, the primary purpose of~~
5 ~~which is to provide overnight accommodation, food, or meals to~~
6 ~~persons who are indigent if a contribution to that entity is tax~~
7 ~~deductible for the donor under the internal revenue code.~~

8 (2) The credit allowed by this section ~~for a contribution~~
9 ~~to a community foundation~~ shall not exceed 5% of the taxpayer's
10 tax liability for the tax year before claiming any credits
11 allowed by this act or \$5,000.00, whichever is less. ~~For tax~~
12 ~~years beginning after December 31, 1991, a taxpayer may claim an~~
13 ~~additional credit under this section not to exceed 5% of the~~
14 ~~taxpayer's tax liability for the tax year before claiming any~~
15 ~~credits allowed by this act or \$5,000.00, whichever is less, for~~
16 ~~total cash contributions made in the tax year to shelters for~~
17 ~~homeless persons, food kitchens, food banks, and, except for com-~~
18 ~~munity foundations, other entities allowed under subsection (1).~~

19 (3) The ~~credits~~ CREDIT allowed by this section ~~are~~ IS
20 nonrefundable so that a taxpayer shall not claim under this sec-
21 tion a total credit amount that reduces the taxpayer's tax
22 liability to less than zero.

23 (4) ~~(3)~~ As used in this section, "community foundation"
24 means an organization that applies for certification on or before
25 April 1 of the tax year for which the taxpayer is claiming the
26 credit and that the department certifies for that tax year as
27 meeting all of the following requirements:

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1 (a) Qualifies for exemption from federal income taxation
2 under section 501(c)(3) of the internal revenue code. ~~—, 26~~
3 ~~U.S.C. 501.~~

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

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

10 (d) Is publicly supported as defined by the regulations of
11 the United States department of treasury, 26
12 C.F.R. 1.170A-9(e)(10).

13 (e) Is not a supporting organization as defined under sec-
14 tion 509(a)(3) of the internal revenue code and the regulations
15 of the United States department of treasury, 26 C.F.R. 1.509(a)-4
16 and 1.509(a)-5.

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

20 (g) Is incorporated or established as a trust before
21 September 1 of the year immediately preceding the tax year for
22 which the credit is claimed.

23 ~~—(4) An entity other than a community foundation may request~~
24 ~~that the department determine if a contribution to that entity~~
25 ~~qualifies for the credit under this section. The department~~
26 ~~shall make a determination and respond to a request no later than~~
27 ~~30 days after the department receives the request.~~

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1 (5) On or before July 1 of each year, the department shall
2 report to the house of representatives committee on taxation and
3 the senate committee on finance the total amount of tax credits
4 claimed under this section and under section 261 of the income
5 tax act of 1967, ~~Act No. 281 of the Public Acts of 1967~~ 1967 PA
6 281, MCL 206.261, for the immediately preceding tax year.

7 Enacting section 1. This amendatory act does not take
8 effect unless House Bill No. 4091 of the 89th Legislature is
9 enacted into law.