

SUBSTITUTE FOR
SENATE BILL NO. 150

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 261 (MCL 206.261), as amended by 2007 PA 94.

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, FOR THE 2008 TAX YEAR**
9 **AND EACH TAX YEAR AFTER 2008, THE VALUE OF FOOD ITEMS** the taxpayer

1 contributes during the tax year to a shelter for homeless persons,
2 food kitchen, food bank, or other entity located in this state, the
3 primary purpose of which is to provide overnight accommodation,
4 food, or meals to persons who are indigent if a contribution to
5 that entity is tax deductible for the donor under the internal
6 revenue code.

7 (2) For a taxpayer other than a resident estate or trust, the
8 credit allowed by this section for a contribution to a community
9 foundation shall not exceed \$100.00, or \$200.00 for a husband and
10 wife filing a joint return for tax years before the 2000 tax year
11 and \$100.00 or \$200.00 for a husband and wife filing a joint return
12 for tax years after the 1999 tax year. For the 1992 tax year and
13 each tax year after 1992, a taxpayer may claim an additional credit
14 under this section not to exceed \$100.00, or \$200.00 for a husband
15 and wife filing a joint return, for total cash contributions made
16 **AND, FOR THE 2008 TAX YEAR AND EACH TAX YEAR AFTER 2008, INCLUDING**
17 **THE VALUE OF FOOD ITEMS CONTRIBUTED** in the tax year to shelters for
18 homeless persons, food kitchens, food banks, and, except for
19 community foundations, other entities allowed under subsection (1).
20 For a resident estate or trust, the credit allowed by this section
21 for a contribution to a community foundation shall not exceed 10%
22 of the taxpayer's tax liability for the tax year before claiming
23 any credits allowed by this act or \$5,000.00, whichever is less.
24 For the 1992 tax year and each tax year after 1992, a resident
25 estate or trust may claim an additional credit under this section
26 not to exceed 10% of the taxpayer's tax liability for the tax year
27 before claiming any credits allowed by this act or \$5,000.00,

1 whichever is less, for total cash contributions made **AND, FOR THE**
2 **2008 TAX YEAR AND EACH TAX YEAR AFTER 2008, INCLUDING THE VALUE OF**
3 **FOOD ITEMS CONTRIBUTED** in the tax year to shelters for homeless
4 persons, food kitchens, food banks, and, except for community
5 foundations, other entities allowed under subsection (1). For a
6 resident estate or trust, the amount used to calculate the credits
7 under this section shall not have been deducted in arriving at
8 federal taxable income.

9 **(3) FOR THE 2008 TAX YEAR AND EACH TAX YEAR AFTER 2008 AND**
10 **SUBJECT TO THE APPLICABLE LIMITATIONS IN THIS SECTION, WHEN**
11 **CALCULATING THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION A**
12 **TAXPAYER MAY INCLUDE AS A CASH CONTRIBUTION AN AMOUNT EQUAL TO THE**
13 **VALUE OF FOOD ITEMS CONTRIBUTED IN THE TAX YEAR TO A SHELTER FOR**
14 **HOMELESS PERSONS, FOOD KITCHEN, FOOD BANK, OR OTHER ENTITY LOCATED**
15 **IN THIS STATE AS DESCRIBED IN SUBSECTION (1).**

16 **(4) ~~(3)~~**—The credits allowed under this section are
17 nonrefundable so that a taxpayer shall not claim under this section
18 a total credit amount that reduces the taxpayer's tax liability to
19 less than zero.

20 **(5) ~~(4)~~**—As used in this section, "community foundation" means
21 an organization that applies for certification on or before May 15
22 of the tax year for which the taxpayer is claiming the credit and
23 that the department certifies for that tax year as meeting all of
24 the following requirements:

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

27 (b) Supports a broad range of charitable activities within the

1 specific geographic area of this state that it serves, such as a
2 municipality or county.

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

6 (d) Is publicly supported as defined by the regulations of the
7 United States department of treasury, 26 CFR 1.170A-9(e)(10). To
8 maintain certification, the community foundation shall submit
9 documentation to the department annually that demonstrates
10 compliance with this subdivision.

11 (e) Is not a supporting organization as an organization is
12 described in section 509(a)(3) of the internal revenue code and the
13 regulations of the United States department of treasury, 26 CFR
14 1.509(a)-4 and 1.509(a)-5.

15 (f) Meets the requirements for treatment as a single entity
16 contained in the regulations of the United States department of
17 treasury, 26 CFR 1.170A-9(e)(11).

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

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

27 (i) Provides evidence to the department that the community

1 foundation has, before the expiration of 6 months after the
2 community foundation is incorporated or established, and maintains
3 continually during the tax year for which the credit under this
4 section is claimed, at least 1 part-time or full-time employee.

5 (j) For community foundations that have an endowment value of
6 \$1,000,000.00 or more only, the community foundation is subject to
7 an annual independent financial audit and provides copies of that
8 audit to the department not more than 3 months after the completion
9 of the audit. For community foundations that have an endowment
10 value of less than \$1,000,000.00, the community foundation is
11 subject to an annual review and an audit every third year.

12 (k) In addition to all other criteria listed in this
13 subsection for a community foundation that is incorporated or
14 established after ~~the effective date of the amendatory act that~~
15 ~~added this subdivision~~ **JUNE 22, 2000**, operates in a county of this
16 state that was not served by a community foundation when the
17 community foundation was incorporated or established or operates as
18 a geographic component of an existing certified community
19 foundation.

20 (6) ~~(5)~~ An entity other than a community foundation may
21 request that the department determine if a contribution to that
22 entity qualifies for the credit under this section. The department
23 shall make a determination and respond to a request no later than
24 30 days after the department receives the request.

25 (7) ~~(6)~~ A taxpayer may claim a credit under this section for
26 contributions to a community foundation made before the expiration
27 of the 18-month period after a community foundation was

1 incorporated or established during which the community foundation
2 must build an endowment value of \$100,000.00 as provided in
3 subsection ~~(4)(g)~~ **(5) (G)**. If the community foundation does not
4 reach the required \$100,000.00 endowment value during that 18-month
5 period, contributions to the community foundation made after the
6 date on which the 18-month period expires shall not be used to
7 calculate a credit under this section. At any time after the
8 expiration of the 18-month period under subsection ~~(4)(g)~~ **(5) (G)**
9 that the community foundation has an endowment value of
10 \$100,000.00, the community foundation may apply to the department
11 for certification under this section.

12 **(8)** ~~(7)~~—On or before July 1 of each year, the department shall
13 report to the house committee on tax policy and the senate finance
14 committee the total amount of tax credits claimed under this
15 section and under section 38c of the **FORMER** single business tax
16 act, 1975 PA 228, ~~MCL 208.38c~~, or section 425 of the Michigan
17 business tax act, 2007 PA 36, MCL 208.1425, for the immediately
18 preceding tax year.