

Legislative Analysis



HOMELESS SHELTER/FOOD BANK AND COMMUNITY FOUNDATION INCOME TAX CREDITS

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House Bill 4993 (H-1) as reported from committee

Sponsor: Rep. Ryan Berman

1st Committee: Tax Policy

2nd Committee: Government Operations

Analysis available at
<http://www.legislature.mi.gov>

House Bill 6162 as reported from committee

Sponsor: Rep. Joe Tate

Committee: Government Operations

Complete to 9-15-20

SUMMARY:

House Bills 4993 and 6162 would amend the Income Tax Act to provide taxpayers a nonrefundable credit against the income tax equal to 50% of the amount contributed to, respectively, a community foundation (HB 4993) or a food bank, food kitchen, or homeless shelter (HB 6162). Except for a resident estate or trust, the amount of the credit under each bill could not exceed \$100 (or \$200 for a joint return). For a resident estate or trust, each credit could not exceed 10% of the taxpayer's tax liability for the year (before claiming any credits) or \$5,000, whichever is less. The credits would apply for tax years beginning on and after January 1, 2020. The bills are described in greater detail below.

House Bill 4993 would allow a taxpayer to claim, for tax years beginning on and after January 1, 2020, an income tax credit equal to 50% of the amount the taxpayer contributed during the tax year to the endowment fund of a *community foundation*.

Community foundation would mean an organization that applied for certification on or before May 15 of the tax year for which the taxpayer was claiming the credit and that the Department of Treasury certified for that tax year as meeting the requirements of a community foundation as provided in section 3 of the Michigan Community Foundation Act.¹ However, for purposes of HB 4993, the organization would only need to have assets of at least \$1.0 million to qualify for certification by the department.

The maximum credit allowed under the bill would be as follows:

- For a taxpayer other than a resident estate or trust, the credit could not exceed \$100, or \$200 for a joint return.
- For a resident estate or trust, the credit could not exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by Part 1 of the act or \$5,000, whichever is less, and the amount used to calculate the credits could not have been deducted in arriving at federal taxable income.

¹ In section 3 of that act: <http://legislature.mi.gov/doc.aspx?mcl-123-903>

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

In addition, on or before July 1 of each year, the Department of Treasury would have to report to the House Committee on Tax Policy and the Senate Finance Committee the total amount of tax credits claimed under HB 4993 for the immediately preceding year.

Proposed MCL 206.261

House Bill 6162 would allow a taxpayer to claim, for tax years beginning on and after January 1, 2020, an income tax credit equal to 50% of the aggregate amount of charitable contributions made by the taxpayer during the tax year to shelters for homeless persons, food kitchens, food banks, or other entities that work to provide overnight accommodations, food, or meals to indigent people if a contribution to that entity was tax deductible for the donor under the Internal Revenue Code.

The maximum credit allowed under the bill, including the value of food items contributed in conjunction with a program in which a vendor makes a matching contribution of similar items in the tax year to an entity described above, would be as follows:

- For a taxpayer other than a resident estate or trust, the credit could not exceed \$100, or \$200 for a joint return.
- For a resident estate or trust, the credit could not exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by Part 1 of the act or \$5,000, whichever is less, and the amount used to calculate the credits could not have been deducted in arriving at federal taxable income.

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

Proposed MCL 206.260

BACKGROUND:

The homeless shelter/food bank and community foundation credits were repealed by 2011 PA 38 (HB 4361) as part of a bill package that replaced the Michigan Business Tax with the Corporate Income Tax and made general revisions to the personal income tax part of the Income Tax Act.² The repeal of the credits was effective beginning with the 2012 tax year. HBs 4993 and 6162 would reinstate the credits with minor changes that include enacting the credits as two separate sections of the Income Tax Act rather than as the single section they were before being repealed.

House Bills 4993 and 6162 are substantially similar to HBs 6433 and 6434 of the 2017-18 legislative session. Those bills were passed by the House.

² HFA analysis of 2011 PA 38: <http://www.legislature.mi.gov/documents/2011-2012/billanalysis/House/pdf/2011-HLA-4361-6.pdf>

FISCAL IMPACT:

As written, the bills would be expected to reduce net income tax revenue by potentially \$25 million or more on a full-year basis, assuming contribution levels similar to those in tax year 2011, the last year in which the credits were allowed under the income tax. In tax year 2011, the Homeless Shelter/Food Bank credit reduced revenue by about \$19.7 million and the Community Foundations credit reduced revenue by about \$3.5 million. Because the credits do not affect gross income tax revenue, there is no impact on the School Aid Fund, and the general fund would therefore absorb the entire revenue loss.

POSITIONS:

The following entities indicated support for the bills (9-9-20):

- Michigan League for Public Policy
- Michigan Nonprofit Association
- Council of Michigan Foundations
- Michigan Catholic Conference

[Note: As introduced, HB 6162 is identical to HB 4992. Testimony was taken in the House Tax Policy committee on HBs 4992 and 4993 in December 2019. Positions and testimony from that meeting are provided below.]

The following entities testified in support of HB 4993 (12-4-19):

- Council of Michigan Foundations
- Capital Region Community Foundation
- Battle Creek Community Foundation
- Grand Rapids Community Foundation

The following entities testified in support of HB 4992 (12-4-19):

- Michigan Catholic Conference
- Shelter Association of Washtenaw County
- Michigan Coalition Against Homelessness
- Food Bank Council

The following entities indicated support for HBs 4992 and 4993 (12-4-19):

- Community Foundation of Southeast Michigan
- Kalamazoo Community Foundation

The Department of Treasury testified in opposition to HBs 4992 and 4993. (12-4-19)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.