

MICHIGAN BUSINESS TAX ACT (EXCERPT)
Act 36 of 2007

***** 208.1425.new THIS NEW SECTION IS EFFECTIVE JANUARY 1, 2008 *****

208.1425.new Contribution to endowment fund of community foundation or education foundation; tax credit.

Sec. 425. (1) Subject to the applicable limitations in this section, a taxpayer that does not claim a credit under section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, may claim a credit against the tax imposed by this act equal to 50% of the amount the taxpayer contributed during the tax year to an endowment fund of a community foundation or an education foundation.

(2) The credit allowed by this section shall not exceed 5% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less.

(3) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.

(4) A taxpayer may claim a credit under this section for contributions to a community foundation made before the expiration of the 18-month period after a community foundation was incorporated or established during which the community foundation must build an endowment value of \$100,000.00 as provided in subsection (6)(a)(vii). If the community foundation does not reach the required \$100,000.00 endowment value during that 18-month period, contributions to the community foundation made after the date on which the 18-month period expires shall not be used to calculate a credit under this section. At any time after the expiration of the 18-month period under subsection (6)(a)(vii) that the community foundation has an endowment value of \$100,000.00, the community foundation may apply to the department for certification under this section.

(5) On or before July 1 of each year, the department shall report to the house of representatives committee on tax policy and the senate finance committee the total amount of tax credits claimed under this section and under section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261, for the immediately preceding tax year.

(6) As used in this section:

(a) "Community foundation" means an organization that applies for certification under subsection (4) 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:

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

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

(iii) 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.

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

(v) Is not a supporting organization as an organization is described in section 509(a)(3) of the internal revenue code and in 26 CFR 1.509(a)-4 and 1.509(a)-5.

(vi) Meets the requirements for treatment as a single entity contained in 26 CFR 1.170A-9(e)(11).

(vii) Except as provided in subsection (4), is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit under this section is claimed and that has an endowment value of at least \$100,000.00 before the expiration of 18 months after the community foundation is incorporated or established.

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

(ix) Provides evidence to the department that the community foundation has, before the expiration of 6 months after the community foundation is incorporated or established, and maintains continually during the tax year for which the credit under this section is claimed, at least 1 part-time or full-time employee.

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

(xi) In addition to all other criteria listed in this subsection for a community foundation that is incorporated or established after January 9, 2001, operates in a county of this state that was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing certified community foundation.

(b) "Education foundation" means an organization that applies for certification on or before April 1 of the tax year for which the taxpayer is claiming the credit that annually submits documentation to the department that demonstrates continued compliance with this subdivision, and that the department certifies for that tax year as meeting all of the following requirements:

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

(ii) 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.

(iii) All funds, gifts, and bequests are exclusively dedicated to a school district or public school academy.

(iv) Is publicly supported as defined by the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(10).

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

(vi) Is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit is claimed.

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

(viii) Is subject to a program review each year and an independent financial audit every 3 years and provides copies of the reviews and audits to the department not more than 3 months after the review or audit is completed.

History: 2007, Act 36, Eff. Jan. 1, 2008.

Compiler's note: Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

Popular name: MBT