



HOUSE BILL No. 5203

October 5, 1995, Introduced by Reps. Bush, Anthony, Ryan, Pitoniak, LaForge, DeMars, Schroer, Hammerstrom, McBryde, Lowe, Dobb, Dalman, Jellema, Byl, Whyman, Hill, Profit, Brewer and Voorhees and referred to the Committee on Tax Policy.

A bill to amend section 38c of Act No. 228 of the Public Acts of 1975, entitled "Single business tax act," as amended by Act No. 231 of the Public Acts of 1994, being section 208.38c of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 38c of Act No. 228 of the Public Acts of
2 1975, as amended by Act No. 231 of the Public Acts of 1994, being
3 section 208.38c of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 38c. (1) For the 1989 through 1997 tax years and
6 subject to the limitations in subsections (2), (3), and (5), a
7 taxpayer who does not claim a credit under section 261 of the
8 income tax act of 1967, Act No. 281 of the Public Acts of 1967,
9 being section 206.261 of the Michigan Compiled Laws, may credit

1 against the tax imposed by this act 50% of the amount the
2 taxpayer contributes during the taxable year to an endowment fund
3 of a community foundation or, for the 1992 through ~~1997~~ 1998
4 tax years and subject to the limitations in subsections (2) and
5 (4), a taxpayer may credit against the tax imposed by this act
6 50% of the cash amount the taxpayer contributes during the tax-
7 able year to a shelter for homeless persons, food kitchen, food
8 bank, or other entity, the primary purpose of which is to provide
9 overnight accommodation, food, or meals to persons who are indi-
10 gent if a contribution to that entity is tax deductible for the
11 donor under the internal revenue code.

12 (2) The credit allowed by this section for a contribution to
13 a community foundation shall not exceed 5% of the taxpayer's tax
14 liability for the tax year before claiming any credits allowed by
15 this act or \$5,000.00, whichever is less. For tax years begin-
16 ning after December 31, 1991, a taxpayer may claim an additional
17 credit under this section not to exceed 5% of the taxpayer's tax
18 liability for the tax year before claiming any credits allowed by
19 this act or \$5,000.00, whichever is less, for total cash contri-
20 butions made in the tax year to shelters for homeless persons,
21 food kitchens, food banks, and, except for community foundations,
22 other entities allowed under subsection (1). The credits allowed
23 by this section are nonrefundable so that a taxpayer shall not
24 claim under this section a total credit amount that reduces the
25 taxpayer's tax liability to less than zero.

26 (3) As used in this section, "community foundation" means an
27 organization that applies for certification on or before April 1

1 of the tax year for which the taxpayer is claiming the credit and
2 that the department certifies for that tax year as meeting all of
3 the following requirements:

4 (a) Qualifies for exemption from federal income taxation
5 under section 501(c)(3) of the internal revenue code, 26
6 U.S.C. 501.

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

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

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

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

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

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

26 (4) An entity other than a community foundation may request
27 that the department determine if a contribution to that entity

1 qualifies for the credit under this section. The department
2 shall make a determination and respond to a request no later than
3 30 days after the department receives the request.

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