

SENATE BILL No. 382

April 14, 2005, Introduced by Senators BISHOP, CASSIS and KUIPERS and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 260 (MCL 206.260), as amended by 1996 PA 484.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 260. (1) A taxpayer may credit against the tax imposed by
2 this act for the tax year, an amount, subject to the applicable
3 limitations provided by this section, equal to 50% of the aggregate
4 amount of charitable contributions made by the taxpayer during the
5 tax year to any of the following:

6 (a) This state pursuant to the Faxon-McNamee art in public
7 places act, ~~Act No. 105 of the Public Acts of 1980, being sections~~
8 ~~18.71 to 18.81 of the Michigan Compiled Laws~~ **1980 PA 105, MCL**
9 **18.71 TO 18.81**, of an artwork created by the taxpayer, for display

1 in a public place.

2 (b) The state art in public places fund created pursuant to
3 ~~Act No. 105 of the Public Acts of 1980~~ **THE FAXON-MCNAMEE ART IN**
4 **PUBLIC PLACES ACT, 1980 PA 105, MCL 18.71 TO 18.81.**

5 (c) A municipality in this state of an artwork created by the
6 personal effort of the taxpayer for display in a public place.

7 (d) Either a municipality of this state or a nonprofit
8 corporation affiliated with both a municipality and an art
9 institute located in the municipality, of money or artwork, whether
10 or not created by the personal effort of the taxpayer, if for the
11 purpose of benefiting an art institute located in that
12 municipality.

13 (e) A public library.

14 (f) A public broadcast station as defined by section 397 of
15 subpart ~~d~~ **E** of **PART IV OF** title III of the communications act of
16 1934, 47 ~~U.S.C.~~ **USC** 397, that is not affiliated with an
17 institution of higher education and that is located within this
18 state.

19 (g) An institution of higher learning located within this
20 state.

21 (h) The Michigan colleges foundation.

22 (i) The state museum.

23 (j) The department of state for the purpose of preservation of
24 the state archives.

25 (k) A nonprofit corporation, fund, foundation, trust, or
26 association organized and operated exclusively for the benefit of
27 institutions of higher learning located within this state. A tax

1 credit for a contribution described in this subdivision is
2 permitted only if the donee corporation, fund, foundation, trust,
3 or association is controlled or approved and reviewed by the
4 governing board of the institution benefiting from the charitable
5 contribution. The nonprofit corporation, fund, foundation, trust,
6 or association shall provide copies of its annual independently
7 audited financial statements to the auditor general of this state
8 and chairpersons of the senate and house appropriations committees.

9 **(1) AN EDUCATIONAL FACILITY OR ORGANIZATION. A CONTRIBUTION TO**
10 **AN ENTITY LISTED IN SECTION 261 SHALL NOT BE USED TO CALCULATE A**
11 **CREDIT UNDER THIS SUBDIVISION.**

12 (2) For a taxpayer other than a resident estate or trust, the
13 amount allowable as a credit under this section for a tax year
14 shall not exceed \$100.00, or for a husband and wife filing a joint
15 return as provided in section 311, \$200.00.

16 (3) For a resident estate or trust, the amount allowable as a
17 credit under this section for a tax year shall not exceed 10% of
18 the tax liability for the year as determined without regard to this
19 section or \$5,000.00, whichever is less and shall not have been
20 deducted in arriving at federal taxable income.

21 (4) As used in this section:

22 (a) "Institution of higher learning" means only an educational
23 institution located within this state that meets all of the
24 following requirements:

25 (i) It maintains a regular faculty and curriculum and has a
26 regularly enrolled body of students in attendance at the place
27 where its educational activities are carried on.

1 (ii) It regularly offers education above the twelfth grade.

2 (iii) It awards associate, bachelors, masters, or doctoral
3 degrees or a combination of those degrees or higher education
4 credits acceptable for those degrees granted by other institutions
5 of higher learning.

6 (iv) It is recognized by the state board of education as an
7 institution of higher learning and appears as an institution of
8 higher learning in the annual publication of the department of
9 education entitled "The Directory of Institutions of Higher
10 Education".

11 (b) "Public library" means that term as defined in section 2
12 of the state aid to public libraries act, ~~Act No. 89 of the Public~~
13 ~~Acts of 1977, being section 397.552 of the Michigan Compiled Laws~~
14 **1977 PA 89, MCL 397.552.**

15 (c) "Contributions made by the taxpayer" means, but is not
16 limited to, the fair market value of artwork created by the
17 personal effort of the taxpayer that is donated to and accepted as
18 a donation by a qualified organization. The fair market value of a
19 piece of artwork shall be determined at the time of the donation by
20 independent appraisal.

21 (d) "Artwork" means an original, visual creation of quality
22 executed in any size or shape, in any media, using any kind or type
23 of materials.

24 **(E) "EDUCATIONAL FACILITY OR ORGANIZATION" MEANS EITHER OF THE**
25 **FOLLOWING:**

26 **(i) AN EDUCATIONAL FOUNDATION.**

27 **(ii) A CONTINUING EDUCATION, A COMMUNITY EDUCATION, OR AN ADULT**

1 EDUCATION PROGRAM OPERATED BY A SCHOOL DISTRICT OR A PUBLIC SCHOOL
2 ACADEMY.

3 (F) "EDUCATION FOUNDATION" MEANS AN ORGANIZATION THAT APPLIES
4 FOR CERTIFICATION ON OR BEFORE APRIL 1 OF THE TAX YEAR FOR WHICH
5 THE TAXPAYER IS CLAIMING THE CREDIT THAT ANNUALLY SUBMITS
6 DOCUMENTATION TO THE DEPARTMENT THAT DEMONSTRATES CONTINUED
7 COMPLIANCE WITH THIS SUBDIVISION, AND THAT THE DEPARTMENT CERTIFIES
8 FOR THAT TAX YEAR AS MEETING ALL OF THE FOLLOWING REQUIREMENTS:

9 (i) QUALIFIES FOR EXEMPTION FROM FEDERAL INCOME TAXATION UNDER
10 SECTION 501(C) (3) OF THE INTERNAL REVENUE CODE.

11 (ii) MAINTAINS AN ONGOING PROGRAM TO ATTRACT NEW FUNDS BY
12 SEEKING GIFTS AND BEQUESTS FROM A WIDE RANGE OF POTENTIAL DONORS IN
13 THE COMMUNITY OR AREA SERVED.

14 (iii) ALL FUNDS, GIFTS, AND BEQUESTS ARE EXCLUSIVELY DEDICATED
15 TO A SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY OR A FOUNDATION
16 DESCRIBED IN SECTION 509(A) (1) OR 509(A) (3) OF THE INTERNAL REVENUE
17 CODE THAT IS LOCATED IN THE COMMUNITY OR AREA SERVED AND THAT IS
18 LOCATED IN THIS STATE.

19 (iv) IS PUBLICLY SUPPORTED AS DEFINED BY THE REGULATIONS OF THE
20 UNITED STATES DEPARTMENT OF TREASURY, 26 CFR 1.170A-9(E) (10).

21 (v) MEETS THE REQUIREMENTS FOR TREATMENT AS A SINGLE ENTITY
22 CONTAINED IN THE REGULATIONS OF THE UNITED STATES DEPARTMENT OF
23 TREASURY, 26 CFR 1.170A-9(E) (11).

24 (vi) IS INCORPORATED OR ESTABLISHED AS A TRUST AT LEAST 6
25 MONTHS BEFORE THE BEGINNING OF THE TAX YEAR FOR WHICH THE CREDIT IS
26 CLAIMED.

27 (vii) HAS AN INDEPENDENT GOVERNING BODY REPRESENTING THE

1 GENERAL PUBLIC'S INTEREST AND THAT IS NOT APPOINTED BY A SINGLE
2 OUTSIDE ENTITY.

3 (viii) IS SUBJECT TO A PROGRAM REVIEW EACH YEAR AND AN
4 INDEPENDENT FINANCIAL AUDIT EVERY 3 YEARS AND PROVIDES COPIES OF
5 THE REVIEWS AND AUDITS TO THE DEPARTMENT NOT MORE THAN 3 MONTHS
6 AFTER THE REVIEW OR AUDIT IS COMPLETED.

7 (G) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT, LOCAL ACT
8 SCHOOL DISTRICT, OR INTERMEDIATE SCHOOL DISTRICT AS THOSE TERMS ARE
9 DEFINED IN THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1 TO
10 380.1852.

11 (5) The sum of the credits allowed by section 257 and this
12 section shall not exceed the tax liability of the taxpayer.