

Act No. 315
Public Acts of 1993
Approved by the Governor
December 28, 1993
Filed with the Secretary of State
December 29, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senator DiNello

ENROLLED SENATE BILL No. 123

AN ACT to amend section 261 of Act No. 281 of the Public Acts of 1967, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," as amended by Act No. 171 of the Public Acts of 1991, being section 206.261 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 261 of Act No. 281 of the Public Acts of 1967, as amended by Act No. 171 of the Public Acts of 1991, being section 206.261 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 261. (1) For the 1989 through 1994 tax years and subject to the limitations in subsections (2) to (6), a taxpayer may credit against the tax imposed by this act 50% of the amount the taxpayer contributes during the taxable year to an endowment fund of a community foundation or for the 1992 through 1994 tax years and subject to the limitations in subsections (2), (3), and (5), a taxpayer may credit against the tax imposed by this act 50% of the cash amount the taxpayer contributes during the taxable year to a shelter for homeless persons, food kitchen, food bank, or other entity, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent if a contribution to that entity is tax deductible for the donor under the internal revenue code.

(2) For a taxpayer other than a resident estate or trust, the credit allowed by this section for a contribution to a community foundation shall not exceed \$100.00, or \$200.00 for a husband and wife filing a joint return. For the 1992 tax year and each tax year after 1992, a taxpayer may claim an additional credit under this section not to exceed \$100.00, or \$200.00 for a husband and wife filing a joint return, for total cash contributions made in the tax year to shelters for homeless persons, food kitchens, food banks, and, except for community foundations, other entities allowed under subsection (1). For a resident estate or trust, the credit allowed by this section for a contribution to a community foundation shall not exceed 10% 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. For the 1992 tax year and each tax year after 1992, a resident estate or trust may claim an additional credit under this section not to exceed 10% 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, for total cash contributions made in the tax year to shelters for homeless persons, food kitchens, food banks, and, except for community foundations, other entities allowed under subsection (1).

(3) The credits allowed by this section are nonrefundable so that a taxpayer shall not claim under this section a total credit amount that reduces the taxpayer's tax liability to less than zero.

(4) As used in this section, "community 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 and that the department certifies for that tax year as meeting all of the following requirements:

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

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

(c) 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.

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

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

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

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

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

(6) The credit for a contribution to a community foundation under this section does not apply in a tax year for which the aggregate amount of the credits claimed by all taxpayers for all prior tax years for contributions to community foundations under this section and section 38c of the single business tax act, Act No. 228 of the Public Acts of 1975, being section 208.38c of the Michigan Compiled Laws, exceeds \$6,000,000.00.

(7) On or before July 1 of each year, the department shall report to the house committee on taxation and the senate committee on finance the total amount of tax credits claimed under this section and under section 38c of the single business tax act, Act No. 228 of the Public Acts of 1975, for the preceding tax year.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.