SENATE BILL No. 652

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July 24, 2007, Introduced by Senator GEORGE and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled

"Income tax act of 1967,"

by amending sections 260, 261, and 269 (MCL 206.260, 206.261, and 206.269), section 260 as amended by 1996 PA 484, section 261 as amended by 2000 PA 195, and section 269 as added by 2004 PA 313.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 260. (1) A taxpayer may credit against the tax imposed by this act for the tax year, an amount, subject to the applicable limitations provided by this section, equal to 50% of the aggregate amount of charitable contributions made by the taxpayer during the tax year **AND THROUGH APRIL 15 OF THE FOLLOWING TAX YEAR** to any of the following:

(a) This state pursuant to the Faxon-McNamee art in public places act, ~~Act No. 105 of the Public Acts of 1980, being sections~~

SENATE BILL No. 652

~~18.71 to 18.81 of the Michigan Compiled Laws~~ **1980 PA 105, MCL 18.71 TO 18.81**, of an artwork created by the taxpayer, for display in a public place.

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

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

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

(e) A public library.

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

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

(h) The Michigan colleges foundation.

(i) The state museum.

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

(k) A nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within this state. A tax credit for a contribution described in this subdivision is permitted only if the donee corporation, fund, foundation, trust, or association is controlled or approved and reviewed by the governing board of the institution benefiting from the charitable contribution. The nonprofit corporation, fund, foundation, trust, or association shall provide copies of its annual independently audited financial statements to the auditor general of this state and chairpersons of the senate and house appropriations committees.

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

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

(4) A CHARITABLE CONTRIBUTION MADE UNDER THIS SECTION SHALL BE USED TO CALCULATE A CREDIT AMOUNT FOR ONLY 1 TAX YEAR.

(5) ~~(4)~~ As used in this section:

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

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

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

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

(*iv*) It is recognized by the state board of education as an institution of higher learning and appears as an institution of higher learning in the annual publication of the department of ~~education~~ **LABOR AND ECONOMIC GROWTH** entitled ~~"The~~ **"**Directory of **MICHIGAN** Institutions of Higher Education".

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

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

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

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

Sec. 261. (1) For the 1989 tax year and each tax year after 1989 and subject to the applicable limitations in this section, a taxpayer may credit against the tax imposed by this act 50% of the amount the taxpayer contributes during the tax year **AND THROUGH APRIL 15 OF THE FOLLOWING TAX YEAR** to an endowment fund of a community foundation or for the 1992 tax year and each tax year after 1992 and subject to the applicable limitations in this section, a taxpayer may credit against the tax imposed by this act 50% of the cash amount the taxpayer contributes during the tax year **AND THROUGH APRIL 15 OF THE FOLLOWING TAX YEAR** to a shelter for homeless persons, food kitchen, food bank, or other entity located in this state, 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 tax years before the 2000 tax year and $100.00 or $200.00 for a husband and wife filing a joint return for tax years after the 1999 tax year. 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). For a resident estate or trust, the amount used to calculate the credits under this section shall not have been deducted in arriving at federal taxable income.

(3) The credits allowed under 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 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:

(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.~~ **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 subdivision.

(e) Is not a supporting organization as an organization is described in section 509(a)(3) of the internal revenue code and the regulations of the United States department of treasury, ~~26 C.F.R.~~ **26 CFR** 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.~~ **26 CFR** 1.170A-9(e)(11).

(g) Except as provided in subsection (6), 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.

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

(i) 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.

(j) 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.

(k) In addition to all other criteria listed in this subsection for a community foundation that is incorporated or established after ~~the effective date of the amendatory act that added this subdivision~~ **JUNE 22, 2000**, 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.

(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) 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 (4)(g). 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 (4)(g) 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.

(7) A CHARITABLE CONTRIBUTION MADE UNDER THIS SECTION SHALL BE USED TO CALCULATE A CREDIT AMOUNT FOR ONLY 1 TAX YEAR.

(8) ~~(7)~~ On or before July 1 of each year, the department shall report to the house committee on tax policy and the senate finance committee the total amount of tax credits claimed under this section and under section ~~38c of the single~~ **425 OF THE MICHIGAN** business tax act, ~~1975 PA 228, MCL 208.38c~~ **2007 PA 36, MCL 208.1425**, for the immediately preceding tax year.

Sec. 269. (1) For tax years that begin after December 31, 2004 and before January 1, 2010, a taxpayer may claim a credit against the tax imposed by this act, subject to the applicable limitations provided by this section, in an amount equal to 50% of the fair market value of an automobile donated **DURING THE TAX YEAR AND THROUGH APRIL 15 OF THE FOLLOWING TAX YEAR** by the taxpayer to a qualified organization that intends to provide the automobile to a qualified recipient.

(2) The value of a passenger vehicle shall be determined by the qualified organization or by using the value of the automobile in the appropriate guide published by the national automotive

dealers association, whichever is less.

(3) For a taxpayer other than a resident estate or trust, the amount allowable as a credit under this section for a tax year shall not exceed $50.00, or for a husband and wife filing a joint return as provided in section 311, $100.00.

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

(5) A CHARITABLE CONTRIBUTION MADE UNDER THIS SECTION SHALL BE USED TO CALCULATE A CREDIT AMOUNT FOR ONLY 1 TAX YEAR.

(6) ~~(5)~~ As used in this section, "qualified organization" and "qualified recipient" mean those terms as defined in section 4y of the use tax act, 1937 PA 94, MCL 205.94y.