Legislative Analysis

HOMELESS SHELTER/FOOD BANK AND COMMUNITY FOUNDATION INCOME TAX CREDITS

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House Bill 4530 as introduced
Sponsor: Rep. Jasper R. Martus

House Bill 4531 as introduced
Sponsor: Rep. Will Snyder

Committee: Tax Policy
Complete to 6-20-23

SUMMARY:

House Bills 4530 and 4531 would amend the Income Tax Act to create nonrefundable credits for donations or contributions to a homeless shelter, food bank, food kitchen or other similar organization or to the endowment fund of a community foundation.

House Bill 4530 would allow taxpayers to claim, for tax years beginning on and after January 1, 2023, a credit for food item contributions and cash donations to a shelter for homeless persons, food kitchen, food bank, or other entity located in Michigan that has a primary purpose of providing overnight accommodation, food, or meals to persons who are indigent if a contribution to that entity is deductible under the federal Internal Revenue Code. The credit would be equal to 50% of the sum of the cash donation and value of food item contributions, up to a maximum of $100, or $200 for a joint return, for taxpayers other than a resident estate or trust. For a resident estate or trust, the credit would be capped at 10% of the taxpayer’s tax liability for the tax year up to $5,000. The amount used to calculate a resident estate or trust credit would not be deducted in arriving at federal taxable income.

If the amount of the credits allowed under the bill exceeds the tax liability of the taxpayer for the tax year, the portion that exceeds the tax liability could not be refunded.

An entity could request that the Department of Treasury determine if a contribution to the entity would qualify for the credit. If requested, the department would have to make the determination and respond within 30 days.

The Department of Treasury would be required to report the total amount of credits claimed during the immediately preceding tax year to the House Committee on Tax Policy and the Senate Finance Committee on or before July 1 annually.

Proposed MCL 206.260

House Bill 4531 would allow a taxpayer to claim, for tax years beginning on and after January 1, 2023, a credit equal to 50% of the amount the taxpayer contributed during the tax year to the endowment fund of a ***community foundation***.

Community foundation would mean 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 of Treasury certifies for that tax year as meeting the requirements of a community foundation as provided in section 3 of the Michigan Community Foundation Act.[1] However, for purposes of the bill, the organization would only need to have assets of at least $1.0 million to qualify for certification by the department.

The maximum credit allowed under the bill would be as follows:

- For a taxpayer other than a resident estate or trust, the credit could not exceed $100, or $200 for a joint return.
- For a resident estate or trust, the credit could not exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by Part 1 of the act or $5,000, whichever is less, and the amount used to calculate the credits could not have been deducted in arriving at federal taxable income.

If the amount of the credits allowed under the bill exceeds the tax liability of the taxpayer for the tax year, the portion that exceeds the tax liability could not be refunded.

To claim the credit, a taxpayer would be required to receive a gift acknowledgment from the community foundation indicating that the contribution was made to the endowment fund of the foundation.

In addition, on or before July 1 of each year, the Department of Treasury would have to report to the House Committee on Tax Policy and the Senate Finance Committee the total amount of tax credits claimed under the bill for the immediately preceding year.

Proposed MCL 206.261

The bills would not take effect unless both are enacted.

BACKGROUND:

The homeless shelter/food bank and community foundation credits were repealed by 2011 PA 38 (HB 4361) as part of a bill package that replaced the Michigan Business Tax with the Corporate Income Tax and made general revisions to the personal income tax part of the Income Tax Act.[2] The repeal of the credits was effective beginning with the 2012 tax year. HBs 4530 and 4531 would reinstate the credits with minor changes that include enacting the credits as two separate sections of the Income Tax Act rather than as the single section they were before being repealed.

FISCAL IMPACT:

As written, the bills would be expected to reduce net income tax revenue by potentially $25 million or more on a full-year basis, assuming contribution levels similar to those in tax year 2011, the last year in which the credits were allowed under the individual income tax. In tax

[1] In section 3 of that act: http://legislature.mi.gov/doc.aspx?mcl-123-903

[2] HFA analysis of 2011 PA 38: http://www.legislature.mi.gov/documents/2011-2012/billanalysis/House/pdf/2011-HLA-4361-6.pdf

year 2011, the homeless shelter/food bank credit reduced revenue by about $19.7 million and the community foundation credit reduced revenue by about $3.3 million. To the extent that the credit increases an existing refund, the full impact would be borne by the general fund. However, if the credit reduces a taxpayer's existing liability, the revenue loss would affect both the School Aid Fund (approximately 25%) and the general fund (approximately 75%).

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