Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 127 (as introduced 3-2-23)
Sponsor: Senator Sam Singh
Committee: Finance, Insurance, and Consumer Protection

Date Completed: 3-8-23

CONTENT

The bill would amend the Income Tax Act to do the following:

-- **Allow a taxpayer, beginning on and after January 1, 2023, to claim a credit against the individual income tax in an amount equal to 50% of the sum of the taxpayer's contributions to a community foundation's endowment fund.**
-- **Limit the maximum amount of the credit to no more than $100, $200 for a joint return, or, in the case of a resident estate or trust, 10% of the taxpayer's total tax liability or $5,000, whichever was less.**
-- **Require the Department of Treasury to report to the House Committee on Tax Policy and the Senate Committee on Finance, on or before July 1 of each year, the total amount of credits claimed under the bill for the immediately preceding tax year.**

Tax Credit for Contribution to Community Foundation

For tax years beginning on and after January 1, 2023, and subject to the applicable limitations described below, the bill would allow a taxpayer to claim a credit against the individual income tax in an amount equal to 50% of the amount the taxpayer contributed during the tax year to an 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 in which the taxpayer is claiming the credit and that the Department certifies for that tax year as meeting the requirements of a community foundation as provided in Section 3 of the Michigan Community Foundation Act. However, for the bill's purposes, the organization only would need to have assets of at least $1.0 million to qualify for certification.

(Section 3 of the Michigan Community Foundation Act defines as "community foundation" as an organization that meets all of the following requirements: 1) has been in existence for at least 10 years, 2) has assets of at least $5.0 million, 3) qualifies for exemption from Federal income taxation under the Internal Revenue Code, 4) supports a broad range of charitable activities within the specific geographic area of Michigan that it serves, 5) maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the geographic area served, 6) is publicly supported as defined under Federal regulations, 7) meets the requirements for treatment as a single entity under Federal regulations, 8) is not an organization described in Section 509(a)(3) of the Internal Revenue Code (i.e., a private foundation), 9) has an independent governing body representing the general public's interest and that is not appointed by a single outside entity, 10) maintains continually at least one part-time or full-time employee, 11) is subject to an annual independent financial audit, and 12) if incorporated or established after January 9, 2001, operates in a county of Michigan 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 community foundation.)

Maximum Amount of Credit

Under the bill, for a taxpayer other than a resident estate or trust, the maximum credit allowed for charitable contributions described above could not exceed $100, or $200 for a joint return. For a resident estate or trust, the maximum credit allowed could not exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed under the individual income tax or $5,000, whichever was less. To claim the credit, the taxpayer would have to have received a gift acknowledgment from the community foundation indicating that the contribution was made to an endowment fund of a community foundation. For a resident estate trust, 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 exceeded the taxpayer's tax liability for the tax year, the portion that exceeded the tax liability could not be refunded.

Report

The bill would require that, on or before July 1 of each year, the Department 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 tax year.

MCL 206.261

PREVIOUS LEGISLATION

(Please note: The information in this summary provides a cursory overview of previous legislation and its progress. It does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

The bill is, in part, similar to Senate Bill 113 of the 2021-2022 Legislative Session. The bill received a hearing in the Senate Committee on Finance but saw no further action.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would reduce General Fund revenue by approximately $3.3 million per year. Between tax years 2006 and 2011, Michigan allowed an identical credit and the number of returns claiming the credit remained relatively stable, at approximately 38,900 each year. Similarly, the total amount claimed each year under the credit remained stable, at approximately $3.3 million per year. Although the School Aid Fund receives revenue from the income tax under Part 1 of the Act, credits are applied against the portion received by the General Fund. As a result, all of the reduction in revenue under the bill would lower General Fund revenue.

Fiscal Analyst: David Zin

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