Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 127 (as passed by the Senate)
Senate Bill 128 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Sam Singh (S.B. 127)
Sponsor: John N. Damoose (S.B. 128)
Committee: Finance, Insurance, and Consumer Protection

Date Completed: 9-6-23

RATIONALE

Public Act (PA) 38 of 2011 restructured business and personal income taxes by repealing the Michigan Business Tax and replacing it with the Corporate Income Tax, among other things. Specifically, PA 38 deleted a provision of the Income Tax Act that allowed individuals to receive a 50% tax credit for the sum of their contributions to certain entities. Following this elimination, it has been reported that organizations saw a decrease in contributions, leading some people to believe that the tax credit incentivized individuals to contribute. Accordingly, it has been suggested that these tax credits be reinstated to encourage more philanthropy to institutions that provide services that benefit others.

CONTENT

Senate Bill 127 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.**

Senate Bill 128 (S-1) 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 homeless shelter, food kitchen, or food bank if the taxpayer received a written acknowledgement from the entity for which the contribution was made.**
-- **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.**
-- **Allow an entity to request that the Department of Treasury determine whether a contribution to that entity would qualify for the credit.**

Senate Bill 127

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.

Senate Bill 128 (S-1)

Tax Credit for Contribution to Homeless Shelter or Food Bank

For tax years beginning on and after January 1, 2023, and subject to the applicable limitations specified below, the bill would allow a taxpayer to claim a credit against the individual income tax in an amount equal to 50% of the sum of the cash amount and, if food items were contributed in conjunction with a vendor's matching contribution program, the value of those food items, the taxpayer contributed during the tax year to a shelter for homeless individuals, food kitchen, food bank, or other entity located in Michigan, the primary purpose of which was to provide overnight accommodation, food, or meals to indigent individuals. The taxpayer would receive a credit only if a contribution to that entity were tax deductible for the donor under the Internal Revenue Code.

To claim a tax credit for a contribution to a homeless shelter or food bank, the tax payer would have to receive a written acknowledgement from the shelter, food bank, or other entity stating that a contribution was made to the entity.

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. 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.

Administration

Under the bill, an entity could request that the Department determine if a contribution to that entity qualified for the proposed tax credit. The Department would have to decide and respond to a request within 30 days after receiving it.

Proposed MCL 206.261 (S.B. 127)
Proposed MCL 206.260 (S.B. 128)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Charitable organizations and other nonprofit groups provide necessary services to individuals in Michigan. According to testimony before the Senate Committee on Finance, Insurance, and Consumer Protection, community foundations and food banks depend on reoccurring donations. While making charitable contributions can become a habit among taxpayers, PA 38 damaged the "pipeline" of charitable donations. The Johnson Center at Grand Valley University completed a survey on donations to Michigan community foundations and examined changes to the number of $200 and $400 donations, those being the amount to achieve the maximum credit before it was repealed. The survey found an 84% decline in first-time donors at the $400 level and a 37.5% decline in first-time donors at the $200 level from 2010 to 2013. Additionally, the survey showed a 76% decline in

$400 donations from 2010 to 2013 and a 44% decline in $200 donations from 2011 to 2013 as a whole[1].

These $200 to $400 donors have the potential to become long-term givers to the organization through planned gifts such as a will or estate. In many cases, the donations are used as part of endowment funds. Endowment funds are investment portfolios established for nonprofit organizations and activities that can provide funding to support the community foundation and stability in uncertain economic times. Through endowment funds, organizations can work toward long term goals that support their missions.[2] Private residents want to assist organizations in their efforts and would be more likely to do so with the bill's incentive.

Opposing Argument
In 2011, PA 38 was enacted to simplify the tax code and remove unnecessary complexity. That goal was accomplished, and it remains a good policy. As it stands, nothing prevents taxpayers from contributing to charitable foundations and nonprofits.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

Senate Bill 127

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.

Senate Bill 128 (S-1)

The bill would reduce General Fund revenue by approximately $18.7 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 234,500 each year. Similarly, the total amount claimed each year under each credit remained stable, at approximately 18.7 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 the reduction in revenue under the bill would lower General Fund revenue.

Fiscal Analyst: David Zin

[1] Johnson Center, Impact of Giving After the Repeal of the Michigan Community Foundation Tax Credit, 2013.
[2] "The Importance of Endowment", https://cfsem.org/ways-to-give-2/endowment/. Retrieved 5-22-2023.

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