

STATE OF MICHIGAN



JOHN ENGLER, Governor

DEPARTMENT OF TREASURY

TREASURY BUILDING, P.O. BOX 1528, LANSING, MICHIGAN 48901
DOUGLAS B. ROBERTS, State Treasurer

REVENUE ADMINISTRATIVE BULLETIN 1995 - 10

Approved: November 17, 1995

**INCOME TAX - SINGLE BUSINESS TAX
COMMUNITY FOUNDATION CREDIT EXTENDED**

(Replaces Revenue Administrative Bulletin 1992-2)

RAB 95-10. This bulletin describes the community foundation tax credit. Public Act 231 of 1994 which amended section 38c of the Single Business Tax Act and Public Act 256 of 1994 which amended section 261 of the Income Tax Act extended the credits through tax year 1997. These amendments also eliminated the \$6 million cap on the community foundation tax credit.

Community Foundation Tax Credit

The Michigan legislature has extended the community foundation tax credit, a nonrefundable credit, through the 1997 tax year.

The credit limits remain at 50% of the amount contributed by the taxpayer to an endowment fund of a certified community foundation not to exceed the following limits:

1. \$100 for an individual taxpayer filing singly under the Income Tax Act.
2. \$200 for a husband and wife filing a joint return under the Income Tax Act.
3. The lesser of 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by the Income Tax Act or \$5,000 for a resident estate or trust.
4. For single business tax taxpayers, the lesser of 5% of the taxpayer's tax liability for the tax year before claiming any credits allowed by the Single Business Tax Act or \$5,000.

The credit is authorized for contributions made through tax year 1997. For fiscal year taxpayers, this includes fiscal tax years ending within the calendar years 1989 through 1997.

The community foundation tax credit is separate from the credit authorized for gifts to homeless shelters, food banks and soup kitchens and is separate from the public contributions credit. The credit for gifts to homeless shelters, food banks and soup kitchens is authorized by section 261 of the Income Tax Act, as amended, and by section 38c of the Single Business Tax Act, as amended. The public contributions credit is available for gifts to institutions of higher learning, a public broadcast system, a public library or other authorized organization, and is provided by section 260 of the Income Tax Act, as amended, and section 38 of the Single Business Tax Act, as amended.

Contributions to an Endowment Fund

A donor's gift to an endowment fund of a certified community foundation will qualify for the credit. An endowment fund is a permanent fund which due to donor restrictions, the governing body's intent or otherwise, it is intended and expected that only the income therefrom will be expended for charitable purposes. The principal will not be expended absent unusual circumstances, such as the exercise of the foundation's power of modification.

A community foundation may hold the following types of endowment funds:

1. **Advised fund:** the donor retains the right to advise the governing board regarding grant recommendations made from the fund's income, and the board remains free to accept or reject suggestions.
2. **Field of interest fund:** the donor limits the discretion of the governing board to make grant choices within a charitable area (i.e. fine arts, health, environment).
3. **Designated fund:** at the time the gift is made, the donor restricts grants to a specific charitable agency or specific project. The governing body agrees to respect the donor's request as long as the agency or project continues to serve the public interest.
4. **Agency endowment fund:** a charitable agency gives its endowment to the community foundation to manage with the agency receiving the annual earnings.
5. **Unrestricted endowment fund:** the donor gives the governing board full discretion to choose those organizations who will receive the earnings of the fund.
6. **Operating endowment fund:** the foundation may establish an endowment fund, the earnings of which are used to defray the foundation's operating expenses.

Substantiation of the Tax Credit

A certified community foundation must provide contributors with a written acknowledgement of the contribution amount and date, and its eligibility for the state tax credit. Taxpayers are encouraged to retain this written acknowledgement in the event of an audit. If the certified community foundation mistakenly acknowledges a nonpermanent fund gift as an endowment fund gift, the taxpayer's claim for credit will be disallowed, and the foundation may lose its certified status.

Certification Procedure

Certification is an annual process. Application materials are due by April 1, and may be obtained by contacting the Community Foundation Unit at (517) 373-3672, or by writing to the Community Foundation Unit, Michigan Department of Treasury, P.O. Box 15128, Lansing, Michigan 48901.

The Treasury Department makes the list of certified community foundations available in the tax instruction booklets for single business tax and income tax, and in a Revenue Administrative Bulletin.

Certification Criteria

An applicant must meet all of the following statutory criteria:

1. Qualifies for exemption from federal income taxation under section 501(c)(3) of the Internal Revenue Code.
2. Supports a broad range of charitable activities within the specific geographic area of this state that it serves, such as a municipality or county.

NOTE: Foundations whose charitable activities have a few targeted and specified activities, rather than serving a general charitable purpose of the specific geographic area, do not qualify.

3. 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.
4. Is publicly supported as defined by the regulations of the United States Department of Treasury, U.S. Treas. Reg. 1.170A-9(e)(10).
5. Is not a supporting organization as defined under section 509(a)(3) of the Internal Revenue Code and the regulations under U.S. Treas. Reg. 1.509(a)-4 and 1.509(a)-5.
6. Meets the single entity requirements of U.S. Treas. Reg. 1.170A-9(e)(11).
7. Is incorporated or established as a trust before September 1 of the year immediately preceding the year in which certification is sought.

The Community Foundation Unit will respond to questions about the certification process. Call (517) 373-3672.

For general information about community foundations, call the Council of Michigan Foundations at (616) 842-7080.